

Applicant Details

First Name	Emily		
Last Name	Christiansen		
Citizenship Status	U. S. Citizen		
Email Address	echristiansen11@huskers.unl.edu		
Address	<table> <tr> <th>Address</th> </tr> <tr> <td> Street 2800 S 72nd St Apt 34 City Lincoln State/Territory Nebraska Zip 68506 Country United States </td> </tr> </table>	Address	Street 2800 S 72nd St Apt 34 City Lincoln State/Territory Nebraska Zip 68506 Country United States
Address			
Street 2800 S 72nd St Apt 34 City Lincoln State/Territory Nebraska Zip 68506 Country United States			
Contact Phone Number	9203665297		
Other Phone Number	9203665297		

Applicant Education

BA/BS From	University of Nebraska-Lincoln
Date of BA/BS	May 2020
JD/LLB From	University of Nebraska College of Law
	http://law.unl.edu
Date of JD/LLB	May 5, 2023
Class Rank	25%
Law Review/Journal	Yes
Journal(s)	Nebraska Law Review
Moot Court Experience	No

Bar Admission**Prior Judicial Experience**

Judicial Internships/ Externships	No
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Post-graduate Judicial Law Clerk **No**

Specialized Work Experience

Recommenders

Larsen, Maureen
maureen.larsen@outlook.com
402-213-8018

Gutman, Daniel
daniel@gutmanllc.com
402-319-8897

Mellor, Matthew
matthew.mellor@lancaster.ne.gov

This applicant has certified that all data entered in this profile and any application documents are true and correct.

EMILY JEAN CHRISTIANSEN

920-366-5297 | echristiansen11@huskers.unl.edu | Lincoln, NE

March 11, 2023

Honorable Irma Carrillo Ramirez
Earle Cabell Federal Building and U.S. Courthouse
1100 Commerce Street, Room 1567
Dallas, Texas 75242

Dear Judge Ramirez:

I am a third-year law student at the University of Nebraska College of Law and am writing for consideration as your judicial law clerk for the 2023–2025 term. After graduation, I am moving to Dallas and taking the July bar exam in Texas. I am eager to start my legal career in Dallas and believe I would be an excellent judicial clerk for you.

As my application indicates, I have focused my law school career on sharpening my editing, legal writing, and research skills. I became a strong editor through Nebraska Law Review. As an Executive Editor, I am responsible for perfecting citations, grammar, and the legal substance of several academic articles. I further strengthened my editing skills by becoming a Legal Writing Teaching Assistant and mentoring Law Review candidate members.

Additionally, I gained invaluable writing experience as a law clerk at the Lancaster County Attorney's Office. I have written dozens of briefs and motions for state district court, the Nebraska Court of Appeals, and the Nebraska Supreme Court. The deputy county attorneys granted me significant independence to research the law, determine the arguments, and draft the brief or motion. My overarching goal is always to submit a well-researched and accurate product. I believe that the editing, legal writing, and research skills I have gained through these various positions show that I would be a successful judicial clerk.

Though I have spent most of my time in state court, I recently started working with federal law through the U.S. Attorney's Office for the District of Nebraska. I have worked with AUSAs day-to-day for the last several months and quickly realized how much I love being in federal court. I have also spent time in the Magistrate Judge's courtroom, watching hearings and familiarizing myself with the federal court system. Ultimately, I would like to become a federal prosecutor. But I am incredibly passionate about legal research and high-quality writing, and I know that a judicial clerkship is the right first step for me.

Aside from these technical skills, I have the necessary drive, independence, and positive attitude to make a great clerk. I would greatly appreciate the opportunity to meet with you to discuss future employment. Thank you for considering my application.

Sincerely,



Emily Christiansen

EMILY JEAN CHRISTIANSEN

920-366-5297 | echristiansen11@huskers.unl.edu | Lincoln, NE

EDUCATION**University of Nebraska College of Law; Lincoln, NE***Juris Doctor with distinction*, expected May 2023

- GPA 6.912, Class Rank: 33/138 (Top 24%)
- Nebraska Law Review, *Executive Editor*

University of Nebraska-Lincoln; Lincoln, NE*Bachelor of Science in Business Administration*, May 2020

Major: Finance; Minor: Economics

WORK EXPERIENCE**United States Attorney's Office, District of Nebraska; Lincoln, NE****January 2023–Present***Legal Extern, Senior-Certified Law Student*

- Research Eighth Circuit caselaw for the U.S. Attorney and Assistant U.S. Attorneys and write memos on issues such as co-conspirator liability, RICO, sentencing guidelines, and drug-related charging issues
- Draft responses for motions to suppress and sentencing arguments
- Attend various court hearings such as motions to suppress, sentencings, and jury trials

Nebraska Law Criminal Clinic; Lincoln, NE**August 2022–December 2022***Senior-Certified Law Student*

- Responsible for approximately thirty county court cases through all stages of prosecution; made charging decisions, arraigned defendants, and appeared at docket calls, jury docket calls, supplementary docket calls, DWOTs, probation hearings, and sentencings

Lancaster County Attorney's Office; Lincoln, NE**May 2021–December 2022***Law Clerk, Senior-Certified Law Student*

- Prosecuted six trials as a senior-certified law student including three jury trials, one bench trial, one grand jury, and one juvenile adjudication
- Assisted felony-level attorneys on the homicide, drug, and sexual assault dockets by drafting arguments on evidence admissibility, developing voir dire strategies, conducting extensive juror research before and after trials, and responding to motions to quash and motions to suppress
- Mentored the 2L law clerks and undergraduate interns

Nebraska Law Review; Lincoln, NE**August 2021–Present***Executive Editor*

- Edit several hundred pages submitted for publication in Nebraska Law Review by ensuring all footnotes comply with Bluebook requirements and revising sentences to improve grammar and clarity
- Mentor candidate members as they complete their membership requirements

Nebraska Law; Lincoln, NE**May 2021–May 2022***Legal Writing Teaching Assistant*

- Conducted extensive draft review and citation checking for first-year law students, created supplementary lectures, and hosted oral argument practice

Nebraska Department of Insurance; Lincoln, NE**May 2021–August 2021***Legal Extern*

- Assisted insurance analysts in their reviews of insurance policies by examining contract language
- Researched insurance law issues including subrogation claims and the Affordable Care Act

Nebraska Law Schmid Research Fellowship; Lincoln, NE**May 2021–August 2021***Research Fellow*

- Revised comprehensive criminal penalty sheets based on updated Nebraska legislation

HONORS

CALI Excellence for the Future Award: International Perspectives

2021

Dean's List, University of Nebraska-Lincoln

2016–2020

Chancellor's Leadership Scholar, University of Nebraska-Lincoln

2016

University of Nebraska College of Law



Name: Christiansen, Emily Jean [Strassburger]

ID# XXX-XX-4674

Course	GR	CR	Prof	Course	GR	CR	Prof	Course	GR	CR	Prof
Fall 2020				Spring 2022							
516 Civil Procedure I	NR	0	JLM	631 Criminal Procedure	6	3	JRP				
501 Contracts I	NR	0	RCD	630 Family Law	6	3	JLM				
508 Criminal Law I	6	3	RFS	740 Negotiations	7	3	DML				
513 Legal Analysis, Writing, Rsch I	NR	0	CKH	694. Sports Law	7	3	JRP				
505 Property I	NR	0	JAS	607 Teaching Assistant (TA)	P	1	CKH				
503 Torts I	7	4	HSP	775 Technology Law: Concepts	P	1	JWH				
Spring 2021				Summer 2022							
517 Civil Procedure II	7	6	JLM	605 Law Review	P	3	RFS				
502 Contracts II	6	6	RCD	761 Trial Advocacy	8	3	SJS				
518 Intl Perspectives in US Legal Sys	9	2	BDL								
514 Legal Analysis, Writing, Rsch II	8	6	CKH								
506 Property II	7	6	JAS								
Summer 2021				Fall 2022							
792 Externship	P	3	JLM	799 Clinical Practice-Criminal	7	6	SJS				
Fall 2021				781R Constitutional Problems Seminar	9	3	RFD				
609 Constitutional Law I	6	3	CTL	605 Law Review	P	3	RFS				
646 Evidence	7	3	REM								
790 Legal Profession	7	3	KMB								
607 Teaching Assistant (TA)	P	1	CKH								
639 Wills and Trusts	8	3	DRJ								
				Spring 2023							
				632 Business Associations	3	PRW					
				792 Externship	2	EJM					
				637 Individual Income Tax	4	ABT					
				741 Pretrial Litigation	3	DJG					

Undergrad Degree / School / Grad Year BBA / University of Nebraska-Lincoln / 05/2020

Date Entered 8/17/2020

Degree Earned

Date:

	1st Year	2nd Year	2nd Cum.	3rd Year	3rd Cum
GPA	7.030	6.750	6.912		
Class Rank	26	60	33		
Class Size	134	138	138		

Honors	Spring 2021	CALI Award - International Perspectives in the U.S. Legal System
	Fall 2021	Law Review Candidate Member
	Spring 2022	Law Review Member Executive Editor
	Spring 2023	Litigation Skills Program of Concentrated Study



I certify this to be the official transcript on file in the Student Service's Office at the University of Nebraska College of Law, Lincoln, Nebraska. This is not an Official University of Nebraska-Lincoln transcript.

Vicki L. Lill
Assistant Director of Student Affairs | Registration Specialist

March 10, 2023

Date

College of Law University of Nebraska – Lincoln

Office of the Registrar
PO Box 830902
Lincoln, Nebraska 68583-0902
(402) 472-2161 | Fax (402) 472-5185

Accreditation

The University of Nebraska College of Law is fully accredited by the American Bar Association and the American Association of Law Schools.

Term Calendar and Credits

The University of Nebraska-Lincoln College of Law operates on a semester calendar with regular terms that are 16 weeks in length. Summer terms have multiple sessions of varying length. Each credit hour generally represents a minimum of 700 minutes of classroom instruction.

Transfer Credits

Transferred credits, as approved by the College of Law, are listed but are not calculated in the grade point average.

*Class Rank

Under our ranking system, two students may have the same rank, for example, 10/150 and *10/150. An inserted (*) rank is given (1) to a student who becomes eligible for a rank after all other students in the class were ranked, or (2) to a student that did not matriculate with the class in which they are now being ranked.

Academic Standing and Eligibility to Enroll

Students are considered in academic good standing if they are currently enrolled or currently eligible to enroll in regularly scheduled classes for the next term.

Degrees

The Juris Doctor degree requires a minimum of 93 credit hours and is generally completed over a three-year period. Students who enrolled at the College of Law prior to Fall 2005 were required to complete 96 credit hours for a Juris Doctor degree.

The LL.M. in Space, Cyber, and Telecommunications degree requires a minimum of 24 credit hours and is generally completed over a one-year period.

The LL.M. in U.S. Global Legal Practice degree requires a minimum of 24 credits and is generally completed over a one-year period.

The Doctor of the Science of Law (JSD) Degree requires 24 credits and can be completed over a five-year period.

Official Method of Certification

A transcript is official if it is printed on colored security paper in portrait format and bears the facsimile signature of the University of Nebraska College of Law Registrar.

Grading System

9	=	A+
8	=	A
7	=	B+
6	=	B
5	=	C+
4	=	C
3	=	D+
2	=	D
0	=	F
I	=	Incomplete
IC	=	Completed and the Incomplete cleared after second-year GPA computation. Grade is included in the third-year GPA computation.
N	=	No credit for Pass/No Pass course
NR	=	No Grade Reported for Semester
P	=	Passing grade for Pass/No Pass course
W	=	Withdrawal

Inquiries

Any inquiries should be directed to the College of Law Registrar, PO Box 830902, Lincoln, Nebraska 68583-0902 or call (402) 472-2161

In accordance with the Family Rights and Privacy Act of 1974 as revised, this transcript must not be released to a third party without written authorization of the student.

Transcript forgery and alterations are considered acts of academic dishonesty and are subject to disciplinary action in accordance with the Student Code of Conduct.

It is the policy of the University of Nebraska-Lincoln not to discriminate based upon age, race, ethnicity, color, national origin, gender, sex, pregnancy, disability, sexual orientation, genetic information, veterans' status, marital status, religion, or political affiliation.

March 26, 2023

The Honorable Irma C. Ramirez
United States District Court
1100 Commerce Street, Room 1567
Dallas, Texas 75242

Dear Judge Ramirez:

I am writing this letter of recommendation on behalf of Emily Christiansen, whom I had the pleasure of supervising while she was a law clerk at the Lancaster County Attorney's Office.

Emily is an exceptionally talented and hard-working individual. From her first day as a law clerk, she eagerly accepted any project she was assigned and went out of her way to take on additional projects and responsibilities. She thoughtfully approached legal issues and displayed strong attention to detail. She worked the maximum number of hours allowed and continued working part-time during the school year while juggling classes, law review, and teaching assistant responsibilities. Even though she was pulled in many directions, she still produced high-quality work and met all her deadlines.

Emily especially enjoyed writing assignments and quickly became known for being a highly dependable writer. Emily produced dozens and dozens of motions and briefs on various legal topics. She regularly impressed attorneys with her ability to write memos and briefs that were meticulously researched and carefully edited. Emily also became known for her love of legal writing. She read numerous books and articles on legal writing strategies and was eager to implement them in the office.

Further, as a senior certified law student, she was trusted with being the "first chair" on several bench and jury trials. She rigorously prepared for each one and consistently demonstrated a high degree of professionalism. She is empathetic and ethical, and I know that Emily would approach her work as a judicial clerk with the same integrity and dedication.

Emily's background and experiences have prepared her well for a judicial clerkship, and, equally importantly, I know that this has been her goal for several years. I have no doubt she will continue to excel in the future, and I wholeheartedly recommend her to be your judicial clerk. Please do not hesitate to contact me if you have further questions.

Sincerely,

Maureen F. Larsen
Legal Counsel to Governor Jim Pillen and Deputy Director of Policy and Research
1319 Nebraska State Capitol
Lincoln, Nebraska 68509
(402)-219-3124
maureen.larsen@nebraska.gov

THE LAW
OFFICE of
DANIEL
GUTMAN

402-319-8897

DANIEL@GUTMANLLC.COM

March 16, 2023

Hon. Irma Carrillo Ramirez
United States Magistrate Judge
1100 Commerce Street, Room 1567
Dallas, Texas 75242

RE: Clerkship Application of Emily Christiansen

Dear Judge Ramirez:

Please consider this letter in enthusiastic support of Emily Christiansen's application for a term clerkship in your chambers. As a former federal law clerk, I am confident Emily would be a valuable addition to your chambers.

I met Emily earlier this year when she enrolled in my pre-trial litigation class at the University of Nebraska College of Law. As her instructor, I have personally evaluated Emily's written and oral advocacy abilities. I can say without hesitation that Emily is an exceedingly bright law student with a talent for writing and critical thinking. She is smart, hardworking, thorough, and an excellent researcher and writer. She stands out as one the best and most committed students I have worked with in my four years at the Law College.

As part of my pre-trial litigation class, I require students to submit weekly assignments that correspond to the particular topic we are covering. These assignments range from draft pleadings and motions, to discovery requests and memoranda. The assignments are time-intensive, requiring extensive research and writing.

Emily approaches each of these assignments with an open mind and works hard to find answers that benefit the class. Emily's legal positions and arguments are well-founded and presented in an articulate and professional manner. Overall, Emily is an asset to the class and broader law school community.

I was not surprised to learn that Emily is an active member of the Nebraska Law Review and has gained critical experience in the courtroom as an extern with the U.S. Attorney's Office for the District of Nebraska. In addition to her strong legal research and writing abilities, Emily is passionate about issues of criminal justice. These interests, coupled with her strong research and writing abilities, make her an ideal candidate for a term clerkship position.

While I am unaware of how Emily's academic qualifications compare with those of other applicants, she is extraordinarily bright, and I am confident that her work ethic,

vision, and dedication will contribute to a very successful experience in your chambers. I recommend her for this position without reservation.

I hope my comments are helpful in what I know is a difficult decision-making process. If I can be of any further assistance, please feel free to contact me.

Respectfully,

A handwritten signature in blue ink, appearing to read "Daniel J. Gutman".

Daniel J. Gutman

March 20, 2023

Honorable Judge Irma Ramirez
110 Commerce Street, Room 1567, Dallas, TX 75242

Dear Judge Ramirez:

I am writing in recommendation for Emily Christiansen as your next law clerk. I worked with Emily when she was a law clerk with the Lancaster County Attorney's Office. At the time, I was prosecuting sexual assault cases as well as internet crimes against children. These cases carried complex legal and evidentiary issues that required the appropriate legal research.

Emily took ownership in these projects for the sexual assault docket. She maintained a steady work flow while also helping identify additional legal issues that may arise in a case. She did so with a level of professionalism and efficiency that I have only seen in a handful of law clerks during my time as a prosecutor.

I relied upon Emily to do a second check when I was concerned about the work provided by some of the younger clerks. I trusted the projects that came from her and knew I could rely on the information she provided. Emily wrote briefs to the Courts on behalf of the office and they were done in a manner fitting for presentation to the Courts.

I have since been appointed as a District Court Judge in Nebraska. If we have a similar program as the U.S. Courts, I would have no hesitancy in hiring and working with Emily again. She will be an asset to you in your work and ensure the cases she is assisting with are given the appropriate time and effort required.

Please do not hesitate to contact me with any further questions or desire additional information about Emily during your decision making process.

Sincerely,

Matthew O. Mellor

District Court Judge, Third Judicial District of Nebraska

Matthew Mellor - matthew.mellor@lancaster.ne.gov

Emily Christiansen Writing Sample

This brief was drafted for the State in the case of *In re Interest of A.A.*, 310 Neb. 679, 968 N.W.2d 607 (2022). This version has not been edited by anyone other than Emily. The Nebraska Supreme Court ruled in favor of the State.

STATEMENT OF FACTS

On October 12, 2019, the court entered an Ex Parte Order for Emergency Temporary Custody and removed juvenile B.C. from the custody of Ms. Jones, his mother. (T16). On October 30, 2019, Appellant filed a Motion for Placement of B.C. (T16). On December 23, 2019, the court overruled Appellant's Motion for Placement of B.C. because it would not be in the juvenile's best interest to be placed with Appellant. (T16). Specifically, the court believed placing B.C. with Appellant would not be safe for B.C., and Appellant was not willing to work with the DHHS to address the court's concerns. (T16). In other words, the court wanted there to be a transition plan in place to ensure a safe transition of B.C. into Appellant's home. (T16).

As part of the order overruling Appellant's motion, the court did not order anything from Appellant. (T16). Instead, the court ordered the DHHS to "continue to make efforts to work with [Appellant] to overcome the barriers to placement." (T16). The court noted that once there is a plan that ensures B.C.'s well-being and safety during this legal transition, Appellant can petition the court again for placement. (T16).

Appellant was unwilling to work with the DHHS to establish this transition plan, and legal custody of B.C. remained with the DHHS. (T16-17). Instead of working on the transition plan, Appellant filed an appeal of the court's decision to overrule the Motion for Placement of B.C. (T16).

In November 2020, the Nebraska Supreme Court issued an opinion on the appeal. *In re A.A.*, 307 Neb. 817, 951 N.W.2d 144 (2020). The Supreme Court found the juvenile court was allowed to develop a transition plan before Appellant would have custody of B.C. *Id.* at 850, 170. The court held that “A plan for B.C.’s welfare during the transition from his foster placement to Joshua’s care is an appropriate exercise of the State’s *parens patriae* jurisdiction so long as the plan is a temporary and minor intrusion into [Appellant’s] parental rights. *Id.* at 852, 171.

The Supreme Court remanded the cause and gave directions concerning the temporary physical custody. *Id.* at 850, 170. Specifically, Appellant could have legal custody only “after establishing, with the most up-to-date information, an appropriate plan for B.C.’s transition into [Appellant’s] temporary physical custody.” *Id.* This mandate clearly states that B.C. can transition into Appellant’s temporary physical custody, but only after an appropriate transition plan is established. *Id.* at 851, 171.

On November 25, 2020, a DHHS attorney contacted Mr. Catlett and proposed a five-part transition plan. (Ex. 13, 17). The DHHS attorney, Ms. Kirchmann, stated the Department believes a quick transition from B.C. into Appellant’s custody is preferred. (Ex. 13, 17). Ms. Kirchmann also said she was open to any suggestions on the transition plan and would gladly work with Mr. Catlett to avoid a hearing on this matter. (Ex. 13, 17).

The transition plan proposed: (1) a walkthrough of the residence to ensure it is still in an appropriate condition; (2) the DHHS would have reasonable access to B.C.; (3) the assigned DHHS case manager to speak directly to Appellant regarding the juvenile’s condition and so long as the juvenile remains a state ward; (4) the assurance that the juvenile’s therapy will continue and

to identify any barriers to that service continuing if any; (5) the juvenile remains enrolled in school. (Ex. 13, 17). The DHHS supported placing B.C. with Appellant. (Ex. 13, 17).

Approximately one hour later, Mr. Catlett received Ms. Kirchmann's proposal and replied the following: "There's not going to be a 'walkthrough' or any of this other stuff. I'll file my own motion in the juvenile court to award temporary legal custody of [B.C.] to [Appellant] . . . Yawn." (Ex. 13, 17).

By April of 2021, there was still not a transition plan. On April 6, 2021, the DHHS filed a Motion for Placement Change to place B.C. with either of the parents. (T1). The same day, Appellant moved the court to remove B.C. from the DHHS's custody and place B.C. into Appellant's custody. (T5). The court scheduled a hearing on both motions for April 13, 2021. (T12).

Appellant submitted an affidavit to the court on April 13, 2021. (Ex. 17). Despite the Supreme Court's clear order that a transition plan must occur before the court places B.C. with Appellant, Appellant clearly expressed his opposition to this transition plan. In the affidavit, Appellant stated the following:

I have no intention of permitting an employee or agency of any government agency, including the Nebraska Department of Health and Human Services, inside my home without a proper warrant . . . I have no intention of personally communicating or corresponding with an employee or agent of any government agency, including the Nebraska Department of Health and Human Services, concerning myself or [B.C.] . . . I have no intention of answering any question about me or [B.C.]. I have no intention of taking part in the development or implementation of a "plan" for the "transition" of [B.C.] into my custody. The only "plan" that needs to be implemented is a "plan" whereby the Nebraska Department of Health and Human Services delivers [B.C.] and his personal belongings to me at my home.

(Ex. 17, 4–5).

On April 14, 2021, the court received the final remaining mandate from the Nebraska Supreme Court. (T12). A hearing to establish the transition plan was scheduled for May 14, 2021. (T13). On May 18, 2021, the court ordered for placement change to Ms. Jones and overruled Appellant's Motion for Legal Custody.

In the order overruling the Motion for Placement Change, the court noted that the DHHS's transition plan was consistent with what the Supreme Court mandated. (T18). However, Appellant was "completely unwilling" to participate in the plan. (T19). The court also noted that Appellant would not even join in the creation of a transition plan. (T18). Because the Supreme Court made the transition plan a prerequisite for custody, and Appellant refused to cooperate with that prerequisite, he could not have legal custody of B.C. (T19).

ARGUMENT

This Court should find that the juvenile court placing custody of B.C. with Ms. Jones instead of Appellant did not deviate from the Supreme Court's mandate. This Court should also find that the juvenile court correctly overruled Appellant's Motion for Placement Change.

I. The Juvenile Court's Order Placing Custody of B.C. With Ms. Jones Did Not Deviate From The Supreme Court's Mandate.

The juvenile court's order placing custody of B.C. with Ms. Jones did not deviate from the Supreme Court's mandate because the juvenile court has the discretion to hold hearings. The Supreme Court mandated that Appellant would have temporary physical placement "after establishing, with the most up-to-date information, an appropriate plan for B.C.'s transition into [Appellant's] temporary physical custody." *In re A.A.* 307 Neb. 817, 851, 951 N.W.2d 144, 171 (2020). An established transition plan is a prerequisite before Appellant gains custody.

The juvenile court complied with the Supreme Court's mandate because the juvenile court scheduled a hearing to establish a transition plan. The juvenile court received the final remaining mandate on April 13, 2021, and scheduled a hearing for May 14, 2021. (T12). The May 14, 2021, hearing was to establish a transition plan. (T12).

Appellant argues that the juvenile court should not have held a hearing. (Appellant's Brief, 9). Specifically, Appellant stated, "The Nebraska Supreme Court did not order the juvenile court to hold a hearing," rather, the Nebraska Supreme Court ordered the juvenile court to establish a transition plan. (Appellant's Brief, 9). However, Appellant's argument is without merit as it misunderstands the role of a juvenile court. A hearing was necessary for the juvenile court to establish the transition plan. In fact, the record is clear that the DHHS did try to avoid having a hearing on the transition plan. (Ex. 13, 17). Ms. Kirchmann specifically stated if she and Mr. Catlett could agree to a plan outside of court, she would happily move the court to approve the plan without hosting a hearing. (Ex. 13, 17). But Mr. Catlett was not inclined to agree to the proposed plan, nor was he inclined to work with the DHHS to create one. As a result, the DHHS and juvenile court had no other option but to schedule a hearing to create the transition plan.

Further, Mr. Catlett and Appellant have had the opportunity to agree to a transition plan since December of 2019. (T18). B.C. could have been placed with Appellant nearly three years ago if Appellant had agreed to a transition plan. (T18). However, neither Mr. Catlett nor Appellant has shown an interest in agreeing to a transition plan. Mr. Catlett stated he would not work with the DHHS to create the plan and said he would instead file a motion to see what happens. (Ex. 13, 17). Appellant, on the other hand, stated in an affidavit he has no intention of following a transition plan. (Ex. 17, 5).

In short, the Nebraska Supreme Court mandated there to be a transition plan. Mr. Catlett and Appellant did not agree to the DHHS's proposed plan, nor did they agree to work with the DHHS to create a plan. Instead, Mr. Catlett and Appellant forced the court to hold a hearing on the transition plan. Because holding hearings is within a juvenile court's discretion, the juvenile court did not deviate from the Supreme Court's mandate. The Supreme Court required a transition plan, and the juvenile court complied with the instruction. This Court should find that the juvenile court did not deviate from the Supreme Court's mandate.

II. The Juvenile Court Correctly Overruled Appellant's Motion for Placement change.

The juvenile court correctly overruled Appellant's Motion for Placement Change because Appellant did not follow the Supreme Court's instructions. In the November 2020 opinion, the Nebraska Supreme Court clearly stated Appellant would have temporary physical placement of B.C. "after establishing, with the most up-to-date information, an appropriate plan for [B.C.]'s transition into [Appellant]'s temporary physical custody." *In re Interest of A.A.*, at 851, 171.

Appellant should not have temporary physical custody of B.C. because he did not establish a transition plan. In November 2020, the DHHS proposed a transition plan to Mr. Catlett, and Mr. Catlett flat-out denied the plan. (Ex. 13, 17). Specifically, Mr. Catlett stated in an email to the DHHS: "There's not going to be a 'walkthrough' or any of this other stuff. I'll file my own motion in the juvenile court to award temporary legal custody of [B.C.] to [Appellant]." (Ex. 13, 17). The DHHS attorney stated they would like to see a quick transition, they would take Mr. Catlett's suggestions into account, and they would be open to settling this without a hearing. (Ex. 13, 17). Instead of working with the DHHS, Mr. Catlett denied the proposal with no justification. (Ex. 13,

17). Mr. Catlett neglected to follow the only instruction that stood between reuniting B.C. and Appellant.

Appellant's argument that "The Nebraska Supreme Court did not instruct the DHHS to create a 'plan,' it instructed the juvenile court to do so" is without merit because Appellant misunderstands what the DHHS does for juvenile courts. (Appellant's Brief, 17). Juvenile courts rely on the DHHS to create transition plans. *See In re Interest of Karlie D.*, 283 Neb. 581, 585 811 N.W.2d 214, 220 (2012) (stating that the juvenile court ordered the Department to submit a transition plan to the court). The juvenile court has neither the expertise nor the time to develop a detailed transition plan that considers the child and parent's needs. While the Supreme Court mandated that the juvenile court establish a transition plan, the clear implication is that the DHHS would develop the transition plan. Any other interpretation of the mandate misunderstands the juvenile court's role.

The juvenile court's overruling of the Motion for Placement Change was also correctly decided because Appellant made it clear he would be unwilling to follow a transition plan. In response to the proposed transition plan, Appellant stated the following in an affidavit: "I have no intention of permitting an employee or agent of any government agency, including the Nebraska Department of Health and Human Services, inside my home without a proper warrant." (Ex. 17, 4). Appellant also stated he would not let the DHHS inspect his home. (Ex. 17, 4). Appellant also said, "I have no intention of personally communicating or corresponding with an employee or agent of any government agency, including the Nebraska Department of Health and Human Services, concerning myself or [B.C.]." (Ex. 17, 4). Appellant followed this statement with: "I have no intention of answering any question about me or [B.C.] by any employee . . . unless I am

subpoenaed.” (Ex. 17, 5). Appellant further showed his intentions with, “I have no intention of taking part in the development or implementation of a ‘plan’ for the ‘transition’ of [B.C.] into my custody.” (Ex. 17, 5).

Appellant’s argument that these statements are irrelevant is without merit. Appellant argues that because there was never an official court order for the transition plan, these statements should not be considered because the plan still needs to be established. (Appellant’s Brief, 12). But Appellant’s argument does not change that Appellant went to the court, voluntarily submitted an affidavit, and explicitly told the court he would not follow a transition plan. Appellant took it a step further and spoke directly about the specific provisions in the proposed plan. For example, the DHHS wanted to do a walkthrough of Appellant’s house, and Appellant stated he would be unwilling to allow DHHS workers into his house. (Ex. 17, 4). While Appellant argues that these statements are “about as far removed as one can get,” ultimately, these statements could not be more explicit about the fact that Appellant would not follow an established transition plan.

This Court should find that the juvenile court correctly denied the Motion for Placement Change. The Supreme Court required there to be an established transition plan before Appellant would have custody. Mr. Catlett was unwilling to work with the DHHS to establish a plan, and Appellant clearly stated he would not follow a transition plan. Additionally, Appellant has had the option of establishing a transition plan since December 2019 and has still not done so. The juvenile court correctly denied the Motion for Placement Change.

CONCLUSION

For the foregoing reasons, this Court should find the juvenile court did not deviate from the Supreme Court's mandate, and the juvenile court correctly overruled Appellant's Motion for Placement Change.

Applicant Details

First Name **Candace**
 Middle Initial **D**
 Last Name **Fong**
 Citizenship Status **U. S. Citizen**
 Email Address ddaniellefongg@gmail.com

Address
Street
836 Linden Street
City
Shreveport
State/Territory
Louisiana
Zip
71104
Country
United States

Contact Phone Number **9013413360**

Applicant Education

BA/BS From **University of Memphis**
 Date of BA/BS **May 2018**
 JD/LLB From **The University of Memphis--Cecil C. Humphreys School of Law**
<http://www.memphis.edu/law/index.php>
 Date of JD/LLB **August 8, 2022**
 Class Rank **33%**
 Does the law school have a Law Review/Journal? **Yes**
 Law Review/Journal **No**
 Moot Court Experience **Yes**
 Moot Court Name(s) **National Moot Court Travel Team**
Moot Court Executive Board

Bar Admission

Prior Judicial Experience

Judicial Internships/
Externships **Yes**
Post-graduate Judicial Law
Clerk **Yes**

Specialized Work Experience

Specialized Work
Experience **Bankruptcy**

Professional Organization

Organizations **Student Bar Association – 1L Bar
Governor, Director of Events, President
Moot Court Board – Associate Chief
Justice
University of Memphis, Board of
Trustees – Student Trustee, 2020 - 2021
National Society of Leadership and
Success – Member
Asian Pacific American Law Student
Association – Community Liaison**

Recommenders

Kritchevsky, Barbara
bkrtchvs@memphis.edu
9016782339

Hodge, John
john_hodge@lawb.uscourts.gov
3186764269

Kathy, Kathy
katherine.steuer@stjude.org
9015952468

Stimac, Lauran
lstimac@gwtclaw.com

**This applicant has certified that all data entered in this profile and
any application documents are true and correct.**

DANIELLE FONG

Danielle.Fong@lawb.uscourts.gov | (901) 341 - 3360
836 Linden Street | Shreveport, Louisiana 71104

The Honorable Irma Carrillo Ramirez
United States Magistrate Judge for the Northern District of Texas
1100 Commerce Street, Room 1567
Dallas, Texas 75242

Dear Judge Ramirez:

I currently clerk for the Honorable John S. Hodge of the United States Bankruptcy Court for the Western District of Louisiana, and I am writing to express my interest in joining your chambers for the 2023 – 2025 term. I recently graduated from University of Memphis Cecil C. Humphreys School of Law, and I recently sat for the February 2023 Texas Uniform Bar Exam. My experience clerking for Judge Hodge has motivated me to continue gaining insight into the inner workings of federal courts.

Clerking for a bankruptcy court has substantially sharpened my research, writing, and organizational capabilities. I help manage the docket of the third highest volume bankruptcy court in the Fifth Circuit using CM/ECF and CHAP. Every week, I review hundreds of motions and responsive pleadings to provide recommendations on the merits of those pleadings to the judge on each matter's disposition. I also regularly draft court orders, memorandum rulings, and bench memoranda, as well as analyzing and granting some court orders. Additionally, I research and prepare rulings on contested matters that typically involve the bankruptcy process's intersection with other areas of law. My experience as Judge Hodge's law clerk has cultivated my analytical and organizational skills exponentially.

In law school, I intentionally pursued opportunities that built my research, writing, and organizational skills while independently funding my education by working in restaurants. Balancing both school and work required effective time management, the ability to prioritize tasks, and the ability to navigate fast-paced, team-oriented environments. In my second year, I externed with U.S. Circuit Judge for the Sixth Circuit Court of Appeals Bernice Donald and competed on my school's National Moot Court team. Both roles required that I produce research and writing under strict time constraints that navigated issues of federal law. I also externed with St. Jude's Legal Office, examining issues such as telehealth, risk management, and regulatory compliance. I held a summer clerkship at a civil defense firm, which involved drafting motions and complaints, reviewing trial pleadings, and conducting legal research. In my third year of law school, I wrote an article examining the need for a trauma-responsive and disability-inclusive environment in the legal educational system and profession, which Professor Nicole Tuchinda and I are looking forward to submitting for publication in a law review journal next year.

Enclosed are a resume, two writing samples, an unofficial law school transcript, and a reference list for your review. I would be deeply grateful for the opportunity to speak with you regarding a potential clerkship position in your chambers. I appreciate your time and consideration.

Sincerely,



Danielle Fong

DANIELLE FONG

Danielle_Fong@lawb.uscourts.gov | (901) 341 - 3360
836 Linden Street | Shreveport, Louisiana 71104

EDUCATION

- | | |
|--------------------------------|--|
| August 2019 –
August 2022 | University of Memphis, Cecil C. Humphreys School of Law
<i>Juris Doctor Candidate, Certificate of Advocacy with honors</i> <ul style="list-style-type: none"> • Dean’s Distinguished Service Award – 2022 • Leo Bearman Sr. American Inn of Court – Pupil, 2021 - 2022 • National Society of Leadership and Success – Member, 2021 |
| <i>Honors &
Awards</i> | <ul style="list-style-type: none"> • First Year Moot Court Competition – Top Ten Oral Advocates, Spring 2020 • Legal Methods II – Best Oral Argument, Spring 2020 |
| <i>Leadership</i> | <ul style="list-style-type: none"> • Moot Court Executive Board – Associate Chief Justice • Student Bar Association – President, Director of Events, 1L Bar Governor • University of Memphis, Board of Trustees – Student Trustee, 2020 - 2021 • National Moot Court Travel Team – Fall 2020 • Cultural Competence Fellow – 2021 - 2022 • Asian Pacific American Law Student Association – Community Liaison • OutLaw – Main Campus Liaison |
| August 2015 –
May 2018 | University of Memphis
<i>Bachelor of Arts in English, Magna Cum Laude</i> <ul style="list-style-type: none"> • 3.95 GPA • Phi Kappa Phi Society • Worked full-time throughout my studies to independently fund myself and my education |
| August 2013 –
May 2014 | New York University in London <ul style="list-style-type: none"> • Studies in English, Cultural and Social Studies, Philosophy, and Psychology • New York University Liberal Studies Student Council – Events Chair • Community Service Award – Gold Key |

EXPERIENCE

- | | |
|------------------------------|--|
| August 2022 –
August 2023 | United States Bankruptcy Court for the Western District of Louisiana, Law Clerk for the Honorable John S. Hodge <ul style="list-style-type: none"> • Drafted and proofread court orders, bench memoranda, and memorandum rulings • Managed cases using Case Management / Electronic Case Filing (CM/ECF) system and Chambers Automation Program (CHAP) Web and CLIENT systems |
| May –
August 2021 | Glassman, Wyatt, Tuttle & Cox, Law Clerk <ul style="list-style-type: none"> • Drafted memorandums, motions, complaints, and other trial court documents • Attended depositions, motion hearings, focus groups, and oral arguments |
| January –
April 2021 | St. Jude Children’s Research Hospital, Legal Extern <ul style="list-style-type: none"> • Prepared research memorandums on telehealth, patient privacy, risk management |
| August –
December 2020 | United States Court of Appeals for the Sixth Circuit, Legal Extern for the Honorable Bernice B. Donald <ul style="list-style-type: none"> • Drafted and proofread FRAP 34 motions, draft opinions, case summaries, en banc rehearing petitions, and staff attorneys’ orders • Reviewed and analyzed cases using the Case Management / Electronic Case Filing (CM/ECF) system |

AO 78 (12/21)

FEDERAL JUDICIAL BRANCH APPLICATION FOR EMPLOYMENT

If you need additional space, continue under "Remarks" listing item number

1. Name (<i>Last, First, Middle Initial</i>)	2. Phone Number
3. Present Address (<i>Street, City, State, Zip</i>)	
4. Email Address	
5. Other Names Previously Used for Employment Purposes	6. Date of Birth (<i>complete only for law enforcement positions</i>)

GENERAL

7. Are you a U.S. Citizen?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	If no, give the Country of your citizenship _____
8. a. Were you ever a federal civilian employee?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	If yes, give highest civilian grade: _____ / _____ / _____ Pay Plan Grade Step
b. Are you receiving a federal civilian annuity payment?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	
c. Are you receiving federal severance pay?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	If yes, give former agency contact/telephone: _____
d. Have you received a federal separation incentive payment in the past 5 years?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	If yes, state mo/yr received and former agency contact/telephone: _____
9. Do you have any relatives who are Judges, Officers or employees of the United States Courts?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	If yes, give their names, positions, and relationships to you. _____
10. Have you ever served on active duty with the military?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	(If selected, you will need to provide your DD-214 (copy 4), Certificate of Release or Discharge from Active Duty, so that your service may be verified and credited)

BACKGROUND INFORMATION

11. During the last 5 years, have you been fired from any job for any reason, did you quit after being told that you would be fired, did you leave any job by mutual agreement because of specific problems, or were you debarred from Federal employment by the Office of Personnel Management or any other Federal agency?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	If yes, provide in Section 17 the date, explanation of problem, reason for leaving, and employer's name/address.
12. Are you delinquent on any Federal debt? (<i>Include delinquencies arising from Federal taxes, loans, overpayment of benefits, and other debts to the U.S. Government, plus defaults of Federally guaranteed or insured loans (e.g., student loan, home mortgage loan).</i>)	<input type="checkbox"/> YES	<input type="checkbox"/> NO	If yes, provide in Section 17 the type, length, and amount of delinquency/default, and steps being taken to correct the error/repay the debt.

EDUCATION

13. a. Do you have a high school diploma or G.E.D. equivalent? ☐ YES ☐ NO

b. Name and location of colleges or universities attended <i>(including law schools)</i>	Dates Attended	Credit Hours		Degree	Date Received	Grade Point Average and/or scholastic standing
		Quarter	Semester			

14. c. Other schools or training attended *(list name/location of school, dates attended, subject studied, certificates received, and other pertinent data):*

JOB RELATED SKILLS, AWARDS, SPECIAL ACCOMPLISHMENTS

15. List any skills (e.g., language, computer, keyboarding speed), honors, awards, or special accomplishments (e.g., memberships in professional/honor societies, leadership activities, performance awards) that you believe are relevant to your ability to perform the job:

APPLICANTS FOR LEGAL POSITIONS

16. a. Are you admitted to the Bar? ☐ YES ☐ NO If yes, list the Bar(s) to which admitted and date(s) of admission. If no, skip to 18b. _____

Is your Bar membership

☐ ACTIVE ☐ INACTIVE _____

b. What was your scholastic standing in law school?

☐ UPPER ½ ☐ UPPER ⅓ ☐ UPPER ¼

c. Were you a member of an editorial board of law review or a moot court participant?

☐ YES ☐ No

17. REMARKS *(Use this space for continuation of answers. List the item number being explained.)*

WORK EXPERIENCE

(Start with your present position and work back 10 years. Include any military service. Use additional page if necessary.)

A

Dates of Employment (<i>mm/dd/yyyy</i>) From: _____ To: _____		Number of hours worked per week: _____	Exact Title of Your Position _____
Salary or Earnings Starting \$ _____ Per _____ Final \$ _____ Per _____		Pay Plan/Grade <i>(If in federal Service)</i>	Place of Employment City _____ State _____
Name and Title of Immediate Supervisor Business Telephone: <i>(Area Code and Phone Number)</i> _____			Name and Address of Employer <i>(firm, organization, etc.)</i> _____
Reason for Leaving _____			
Description of Work _____			

B

Dates of Employment (<i>mm/dd/yyyy</i>) From: _____ To: _____		Number of hours worked per week: _____	Exact Title of Your Position _____
Salary or Earnings Starting \$ _____ Per _____ Final \$ _____ Per _____		Pay Plan/Grade <i>(If in federal Service)</i>	Place of Employment City _____ State _____
Name and Title of Immediate Supervisor Business Telephone: <i>(Area Code and Phone Number)</i> _____			Name and Address of Employer <i>(firm, organization, etc.)</i> _____
Reason for Leaving _____			
Description of Work _____			

C

Dates of Employment (<i>mm/dd/yyyy</i>) From: _____ To: _____		Number of hours worked per week:	Exact Title of Your Position
Salary or Earnings Starting \$ _____ Per _____ Final \$ _____ Per _____		Pay Plan/Grade (<i>If in federal Service</i>)	Place of Employment City _____ State _____
Name and Title of Immediate Supervisor Business Telephone: (<i>Area Code and Phone Number</i>)		Name and Address of Employer (<i>firm, organization, etc.</i>)	
Reason for Leaving			
Description of Work			

D

Dates of Employment (<i>mm/dd/yyyy</i>) From: _____ To: _____		Number of hours worked per week:	Exact Title of Your Position
Salary or Earnings Starting \$ _____ Per _____ Final \$ _____ Per _____		Pay Plan/Grade (<i>If in federal Service</i>)	Place of Employment City _____ State _____
Name and Title of Immediate Supervisor Business Telephone: (<i>Area Code and Phone Number</i>)		Name and Address of Employer (<i>firm, organization, etc.</i>)	
Reason for Leaving			
Description of Work			

OPTIONAL BACKGROUND INFORMATION – RESPOND ONLY IF REQUIRED BY THE VACANCY ANNOUNCEMENT

Answer questions 18, 19, and 20, only if required by the vacancy announcement. Your answers should include convictions resulting from a plea of nolo contendere (no contest), but omit (1) traffic fines of \$300 or less, (2) any violation of law committed before your 16th birthday, (3) any violation of law committed before your 18th birthday if finally decided in juvenile court or under a Youth Offender law, (4) any conviction set aside under the Federal Youth Corrections Act or similar state law, and (5) any conviction for which the record was expunged under Federal or state law.

18. During the last 7 years, have you been convicted, imprisoned, on probation, or on parole? *(Include felonies, firearms or explosives violations, misdemeanors, and all other offenses)*

☐ YES ☐ NO

If yes, provide in Section 21 the date, explanation of violation, place of occurrence, and name/address of police dept or court.
19. Have you been convicted by a military court-martial in the past 7 years?

☐ YES ☐ NO

If yes, provide in Section 21 the date, explanation of violation, place of occurrence, and name/address of military authority or court.
20. Are you now under charges for any violation of law?

☐ YES ☐ NO

If yes, provide in Section 21 the date, explanation of violation, place of occurrence, and name/address of police dept or court.

21. REMARKS *(Use this space for continuation of answers. List the item number being explained.)*

APPLICANT CERTIFICATION

I certify that, to the best of my knowledge and belief, all of the information on and attached to this application is true, correct, complete and made in good faith. I understand that false or fraudulent information on or attached to this application may be grounds for not hiring me, or firing me after I begin work, and may be punishable by fine or imprisonment. I understand that any information I give may be investigated.

SIGNATURE _____

DATE SIGNED _____

AO 78B (10/2020)

VOLUNTARY RACE/ETHNICITY, GENDER, & DISABILITY IDENTIFICATION

(Please read the Privacy Statement and Specific Instructions before completing.)

Privacy Statement

You are being requested to provide this information to assist the federal judiciary in planning, monitoring, and reporting equal employment opportunities and its supporting programs. Solicitation of this information is in accordance with Judicial Conference of the United States policy. Your furnishing this information is voluntary. There will be no impact on your application if you choose not to complete this form.

Specific Instructions: Please enter your name, position you are applying for, vacancy announcement number, location of position, identify your gender, disability status, and ethnicity. Select the race/national origin category with which you most closely identify. You may select more than one race/national origin category.

1. Name: *(Last, First, MI)* _____
2. Position/ Vacancy #: _____
3. Vacancy Location (Court, Court Unit, etc.) _____
4. Gender: ☐ Female ☐ Male ☐ Non-binary
5. Disability: ☐ Yes ☐ No
6. Ethnicity: ☐ Hispanic ☐ Non-Hispanic Origin
7. Race / National Origin: *(select all that apply)*

<input type="checkbox"/> American Indian or Alaska Native	A person having origins with any of the original peoples of North and South America (including Central America) and who maintain tribal affiliation or community attachment. It includes people who identify as "American Indian" or "Alaska Native" and includes groups such as Navajo Nation, Blackfeet Tribe, Mayan, Aztec, Native Village of Barrow Inupiat Traditional Government, and Nome Eskimo Community.
<input type="checkbox"/> Asian	A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, or Vietnam.
<input type="checkbox"/> Black/African American	A person having origins in any of the black racial groups in Africa.
<input type="checkbox"/> Native Hawaiian or Pacific Islander	A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
<input type="checkbox"/> White/Caucasian	A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.
<input type="checkbox"/> Some Other Race	A person who does not identify with any of the provided race categories.

For Office Use Only:

Department ID _____

DANIELLE FONG

Danielle_Fong@lawb.uscourts.gov | (901) 341 - 3360
836 Linden Street | Shreveport, Louisiana

THE UNIVERSITY OF MEMPHIS CECIL C. HUMPHREYS SCHOOL OF LAW
UNOFFICIAL TRANSCRIPT OF GRADES

Fall Semester 2019

<u>Class</u>	<u>Hours</u>	<u>Grade</u>
Civil Procedure I	3	2.00
Contracts I	3	2.33
Legal Methods I	3	3.00
Property I	3	3.00
Torts I	3	4.00
Fall Semester 2019	15	2.86/4.00

Spring Semester 2020

*pass or fail grading scale used due to COVID-19

<u>Class</u>	<u>Hours</u>	<u>Grade</u>
Civil Procedure II	3	P*
Contracts II	3	P*
Legal Methods II	3	P*
Property II ¹	3	P*
Torts II ²	3	P*
Spring Semester 2020	15	2.86/4.00
Cumulative	30	2.86/4.00

¹ Scored in the top ten of the class.

² High Pass.

This unofficial transcript may be verified by contacting the Law School Registrar, Jamie Johnson at (901) 678-2660.

DANIELLE FONG

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836 Linden Street | Shreveport, Louisiana

THE UNIVERSITY OF MEMPHIS CECIL C. HUMPHREYS SCHOOL OF LAW
UNOFFICIAL TRANSCRIPT OF GRADES

Fall Semester 2020

<u>Class</u>	<u>Hours</u>	<u>Grade</u>
Appellate Advocacy	3	3.67
Administrative Law	3	3.67
Evidence	4	3.00
Externship	3	S
Moot Court Travel Team	2	E
Fall Semester 2020	15	3.40/4.00

Spring Semester 2021

<u>Class</u>	<u>Hours</u>	<u>Grade</u>
Business Organizations I	3	3.00
Constitutional Law	4	3.33
Criminal Procedure I	3	2.67
Externship	3	E
Spring Semester 2021	12	3.03/4.00
Cumulative	27	3.06/4.00

This unofficial transcript may be verified by contacting the Law School Registrar, Jamie Johnson at (901) 678-2660.

DANIELLE FONG

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THE UNIVERSITY OF MEMPHIS CECIL C. HUMPHREYS SCHOOL OF LAW
UNOFFICIAL TRANSCRIPT OF GRADES

Fall Semester 2021

<u>Class</u>	<u>Hours</u>	<u>Grade</u>
Decedents' Estates	3	2.67
Fair Employment Practices	3	2.33
Family Law	3	3.33
Intellectual Property Survey	3	4.00
Medical Legal Partnership Clinic	4	2.67
Fall Semester 2021	16	3.03/4.00

Spring Semester 2022

<u>Class</u>	<u>Hours</u>	<u>Grade</u>
Bar Exam Preparation	3	3.67
Health Law Seminar	2	3.33
Legislation	3	3.67
Moot Court Executive Board	2	S
Professional Responsibility	2	4.00
Secured Transactions	3	4.00
Trial Advocacy	3	3.67
Spring Semester 2022	19	3.73 /4.00
Cumulative	35	3.20/4.00

This unofficial transcript may be verified by contacting the Law School Registrar, Jamie Johnson at (901) 678-2660.

DANIELLE FONG

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NEW YORK UNIVERSITY IN LONDON UNOFFICIAL TRANSCRIPT OF GRADES

Fall Semester 2013

<u>Class</u>	<u>Hours</u>	<u>Grade</u>
Central Problems of Philosophy	4	3.00
Cultural Foundations I	4	3.33
English Composition	4	3.67
Introduction to Sociology	4	3.67
Fall Semester 2013	16	3.42/4.00

Spring Semester 2014

<u>Class</u>	<u>Hours</u>	<u>Grade</u>
Cultural Foundations II	4	3.67
English Composition & Analysis	4	4.00
General Psychology	4	3.00
Major British Writers	4	2.67
Social Foundations II	4	3.67
Spring Semester 2020	16	3.40/4.00

Cumulative	32	3.41/4.00
------------	----	-----------

This unofficial transcript may be verified by contacting the University of Memphis Registrar at (901) 678-2810.

DANIELLE FONG

Danielle_Fong@lawb.uscourts.gov | (901) 341 - 3360
836 Linden Street | Shreveport, Louisiana 71104

THE UNIVERSITY OF MEMPHIS UNOFFICIAL TRANSCRIPT OF GRADES

Spring Semester 2015

<u>Class</u>	<u>Hours</u>	<u>Grade</u>
Literary Heritage	3	4.00
Fall Semester 2015	3	4.00/4.00

Fall Semester 2015

<u>Class</u>	<u>Hours</u>	<u>Grade</u>
American Literature to 1865	3	3.67
British Literature to 1750	3	4.00
Poetry Writing	3	3.67
Spring Semester 2021	12	3.89/4.00

Spring Semester 2016

<u>Class</u>	<u>Hours</u>	<u>Grade</u>
20th Century British Literature	3	4.00
British Literature since 1750	3	3.67
Cultural Ideas in American Literature	3	W
Fiction Writing	3	4.00
Spring Semester 2016	9	3.94/4.00

Cumulative	24	3.93/4.00
------------	----	-----------

This unofficial transcript may be verified by contacting the University of Memphis Registrar at (901) 678-2810.

DANIELLE FONG

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THE UNIVERSITY OF MEMPHIS UNOFFICIAL TRANSCRIPT OF GRADES

Summer Semester 2017

<u>Class</u>	<u>Hours</u>	<u>Grade</u>
Oral Communications	3	3.67
Leadership and Communications	3	4.00
Summer Semester 2017	6	3.84/4.00

Spring Semester 2017

<u>Class</u>	<u>Hours</u>	<u>Grade</u>
Foundations of Mathematics	2	4.00
Mythic Backgrounds in Literature	3	4.00
Persuasive Writing	3	4.00
World Art II	3	4.00
Spring Semester 2017	12	4.00/4.00

Cumulative 22 3.95 /4.00

This unofficial transcript may be verified by contacting the University of Memphis Registrar at (901) 678-2810.

DANIELLE FONG

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836 Linden Street | Shreveport, Louisiana 71104

THE UNIVERSITY OF MEMPHIS UNOFFICIAL TRANSCRIPT OF GRADES

Fall Semester 2017

<u>Class</u>	<u>Hours</u>	<u>Grade</u>
World Art I	3	4.00
Honors Seminar I	3	3.67
Honors Thesis	3	W
Free Weights and Machines	2	4.00
Philosophy of Law	3	4.00
Spring Semester 2022	12	3.92/4.00

Spring Semester 2018

<u>Class</u>	<u>Hours</u>	<u>Grade</u>
Faith, Reason, and Imagination	3	4.00
Spring Semester 2018	3	4.00/4.00

Cumulative	15	3.95/4.00
------------	----	-----------

This unofficial transcript may be verified by contacting the University of Memphis Registrar at (901) 678-2810.

DANIELLE FONG

Danielle_Fong@lawb.uscourts.gov | (901) 341 - 3360
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REFERENCE LIST

Judge John S. Hodge

United States Bankruptcy Court for the Western District of Louisiana
Email – John_Hodge@lawb.uscourts.gov
Phone – (318) 934 - 4842

Judge Bernice B. Donald

United States Court of Appeals for the Sixth Circuit
Email – bernice_donald@ca6.uscourts.gov
Phone – (901) 495 - 1299

Kathy Steuer

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Lauran Stimac

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Barbara Kritchevsky

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David S. Romantz

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Cecil C. Humphreys School of Law

1 N. Front Street
Memphis, Tennessee 38103-2189

Office: 901.678.2421
Fax: 901.678.5210

www.memphis.edu/law

Re: Candace (Danielle) Fong

Dear Judge:

Danielle Fong is a go-getter. She is extremely involved in law school activities. This year she is President of the Student Bar Association and Associate Chief Justice of the Moot Court Board. It is somewhat surprising that she does as well as she does, both academically and with her activities, considering everything on her plate.

I worked closely with Danielle during her second year when she was a member of the National Moot Court team, which I coach. Work on the National team is challenging for anyone, but especially for second year students. Team members must write a brief on challenging topics that they have not encountered in school (that year was civil RICO and administrative searches) with no outside help. Danielle and her two teammates produced a very commendable brief under the circumstances. The team then devotes approximately a month to getting ready for the competition. The practices can be long and intense. Danielle worked hard and did a very good job arguing.

Danielle was also in my Appellate Advocacy class that semester. Her main assignment was to rewrite her portion of the National brief with the benefit of the hindsight of arguments. Danielle wrote an excellent brief and was one of a handful of students in the class to earn an A-.

I have not taught Danielle in a substantive class or worked with her much this. She is very visible with her activities, though. I am sure that she will be her energy and ambition to a clerkship.

Sincerely,

Barbara Kritchevsky
Cecil C. Humphreys Professor of Law

February 23, 2023

The Honorable Irma Ramirez
Earle Cabell Federal Building and
United States Courthouse
1100 Commerce Street, Room 1567
Dallas, TX 75242

Dear Judge Ramirez:

I serve as a Bankruptcy Judge for the Western District of Louisiana. My docket moves at a fast pace. I have two law clerks. I assigned to Danielle the duties of managing my daily order folder and preparing for hearings involving contested matters and adversary proceedings. I also asked her to prepare written rulings following trials. These duties required her to quickly analyze complex legal issues involving bankruptcy law and state law and to communicate a proposed resolution of the disputes pending before the court. Danielle did a superb job of doing everything I asked of her.

Danielle is knowledgeable and courteous and has been a welcomed addition to my chambers. If given the opportunity, Danielle will contribute greatly to your chambers. I highly recommend her.

I hope this letter is helpful to you in selecting from the many worthy applications you must receive. If I can provide further information, please do not hesitate to contact me at 318-676-4269 or John_Hodge@lawb.uscourts.gov.

Sincerely,

/s/ John S. Hodge

John Hodge - john_hodge@lawb.uscourts.gov - 3186764269

February 23, 2023

The Honorable Irma Ramirez
Earle Cabell Federal Building and
United States Courthouse
1100 Commerce Street, Room 1567
Dallas, TX 75242

Dear Judge Ramirez:

Re Candace Danielle Fong

I write to enthusiastically endorse Danielle Fong for a clerkship. Danielle was a legal intern in the Office of Legal Services at St. Jude Children's Research Hospital during the Spring of 2021. Danielle demonstrated a strong work ethic and commitment to understanding the reason behind the assignment and to getting it right. I had ample opportunity to witness this, as she worked on two legal research memoranda for me, one on telehealth and the other on the Telephone Consumer Protection Act. She also assisted me in updating four informed consent documents for different patient procedures and treatments. Danielle also has a lovely and caring personality.

Since her internship, i have seen Danielle at an event or two at the law school, where she showed an interest in the larger legal issues and events in the community. I hope you will select her as a law clerk.

Your honor may reach me at 901-595-2468 or katherine.steuer@stjude.org with any questions.

Sincerely yours,

Katherine B. Steuer,
Managing Counsel, Health Affairs

Steuer Kathy - kathy.steuer@stjude.org

February 23, 2023

The Honorable Irma Ramirez
Earle Cabell Federal Building and
United States Courthouse
1100 Commerce Street, Room 1567
Dallas, TX 75242

Dear Judge Ramirez:

Please allow this correspondence to serve as a letter of recommendation for Candace (Danielle) Fong. It is my understanding that Ms. Fong is applying for a clerkship in your Court, and it is my privilege to recommend her for that position. During her tenure with our Firm as a student law clerk in the summer of 2021, Ms. Fong demonstrated her willingness to work hard and learn new aspects of the law on a daily basis. She was always eager to take advantage of observation opportunities, and our attorneys never hesitated to offer her those opportunities because she conducted herself professionally and respectfully at all times. Ms. Fong paid attention to detail in completing her research and writing assignments, and her work resulted in meaningful contributions to the cases on which she worked. In addition to her excellent work ethic, high quality work product, Ms. Fong has a positive attitude and a pleasant demeanor, making her a joy to have in the office.

Sincerely yours,

/s Lauran G. Stimac

Glassman, Wyatt, Tuttle & Cox, P.C.

26 North Second Street

Memphis, TN 38103

(901) 527-4673

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Lauran Stimac - lstimac@gwtclaw.com

WRITING SAMPLE

The following writing sample is a memorandum ruling completed during my clerkship for the Honorable John S. Hodge, United States Bankruptcy Judge for the Western District of Louisiana.

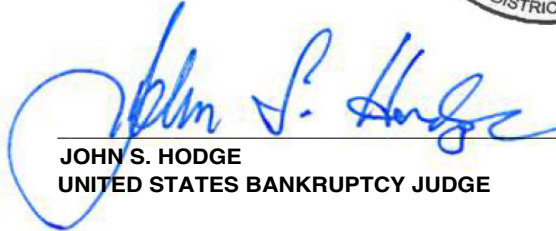
While I drafted substantive parts of this sample, the final draft of this ruling is the product of collaboration between Judge Hodge, myself, and his other law clerk. As a result, third parties edited this writing sample.

This memorandum ruling analyzes whether, under Federal Rule of Bankruptcy Procedure 9019, an application to compromise should be approved. The compromise resulted from the debtor's aunt obtaining an \$8 million judgment against him in state court for breaches of trust, mismanagement of funds, failure to account, and fraud. The compromise agreement would, among other things, allow the full proof of claim filed by the judgment creditors and dismiss the pending state court appeal.

SO ORDERED.

DONE and SIGNED October 12, 2022.




JOHN S. HODGE
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

IN RE:	§	Case Number: 21-10421
	§	
Lucien Harry Marioneaux, Jr.	§	Chapter 11
Debtor	§	
	§	

Memorandum Ruling

This case involves allegations of fraudulent conduct by a lawyer (the Debtor) who was sued in state court by his aunt, individually and in her capacity as co-trustee of a trust. The litigation resulted in a judgment against Debtor for his breaches of trust, mismanagement of funds, failure to account and fraud. The judgment creditors hold claims exceeding \$8 million. The judgment is currently on appeal.

Several months after the bankruptcy case was filed, this court appointed a chapter 11 trustee who now seeks authority to enter into a compromise agreement

with the judgment creditors. If approved, the compromise would, among other things, result in the dismissal of the appeal and the allowance of the full amount of the proof of claim filed by the judgment creditors. It would also result in the transfer of money and property to the bankruptcy estate which could be used to satisfy allowed claims held by non-settling parties.

For the reasons that follow, the court concludes that the settlement is fair and equitable, is in the best interest of the estate, and meets the factors set forth by the Fifth Circuit for approval of a settlement. Therefore, the compromise should be approved.

Background

The salient facts are summarized below:

1. On June 4, 2021, certain creditors commenced this proceeding against Lucien Harry Marioneaux, Jr. (“**Debtor**”) by filing an involuntary petition in this court requesting relief under chapter 7 of the Bankruptcy Code. Debtor initially challenged the involuntary petition and the venue of this case. However, on August 31, 2021, an agreed order for relief was entered under chapter 7. Debtor then requested that his case be converted to one under chapter 11. The court converted the case on August 31, 2021.

2. Upon conversion, Debtor remained in possession of all property of the estate and was vested with the rights, powers, and duties of a debtor in possession as set forth in 11 U.S.C. § 1107.

3. On January 26, 2022, this court appointed a chapter 11 trustee. As a

result, Debtor ceased to have the powers of a debtor in possession.

4. Debtor is licensed to practice law in the State of Louisiana.

5. Before the commencement of this case, Debtor was involved in two state court proceedings pending in Louisiana. Those actions are referred to as the “**Trust Litigation**” and the “**Succession Proceeding**,” more particularly described as: *Marionaux vs. Marionaux*, Case No. 588,685-A, First Judicial District Court, Caddo Parish, Louisiana and *Succession of Lucien H. Marionaux*, Case No. 594,635-B, First Judicial District Court, Caddo Parish, Louisiana.

6. The Trust Litigation was filed by Debtor’s aunt, Mary Sue Marionaux, individually and in her capacity as co-trustee of the Lela Mae Johnson Marionaux Trust (“**LMJM Trust**”). She is the petitioning creditor in this bankruptcy case. Among other things, the suit alleges that Debtor and his father committed breaches of trust and fraud. Soon after the Trust Litigation was commenced, Debtor’s father died. His father’s succession was substituted as a defendant. After a trial on the merits, the court entered a judgment (the “**Trust Judgment**”) finding that Debtor and his father breached their fiduciary duties as trustees of various trusts that fraudulently deprived Mary Sue Marionaux and her trust of valuable assets.

7. The Trust Judgment stated that Debtor breached his fiduciary duty as a trustee, “including the duty of loyalty, by engaging in intentional acts of willful fault, misconduct, gross negligence and fraud” in his administration of certain trusts at issue in that litigation. (Doc. 152-1). The trial court rendered judgment

against Debtor, his father's succession, and the various companies to which they diverted the trust money and property. Among other things, the judgment awarded over \$6 million in monetary damages plus judicial interest and over \$1.5 million in attorney fees and other costs. The judgment also required Debtor to return property that had been improperly diverted from the trusts. The trial court permitted Debtor to file a "suspensive appeal" with respect to certain portions of the judgment and a "devolutive appeal" with respect to the remainder.¹ (Doc. 11-2, p. 5). The appeal is pending.

8. When Debtor's father passed away, the Succession Proceeding was commenced in the same court where the Trust Litigation is pending.

9. Debtor's father died without a will. Debtor is the only descendant and intestate heir of his father's estate. Subject to the appeal in the Trust Litigation, the judgment creditors have claims against Debtor's father's estate in the Succession Proceeding.

10. Debtor was the original independent administrator in the Succession Proceeding. Following the entry of the Trust Judgment, however, he was removed as the administrator, in part for his failure to properly inventory and account for the assets of his father's succession. (Doc. 11-5). Thereafter, a successor administrator was appointed by the state court, who later resigned. (Doc. 11-6).

11. After the commencement of this bankruptcy case, Mary Sue

¹ Under Louisiana law, a suspensive appeal is one that suspends the effect or execution of a judgment. LA. CODE CIV. PROC. art. 2123. By contrast, a judgment creditor may enforce a judgment subject to a devolutive appeal as soon as the delays for suspensive appeal have elapsed. LA. CODE CIV. PROC. art. 2252.

Marionaux was appointed as the provisional administrator in the Succession Proceeding.

12. This court entered an order (Doc. 13) modifying the automatic stay to: (a) allow the appeal of the Trust Judgment to proceed; and (b) allow the administration of the Succession Proceeding to proceed. However, no acts to collect, assess, enforce, or recover upon any order or judgment in the Trust Litigation and/or the Succession Proceeding against the Debtor or against any property of the bankruptcy estate are permitted absent further order of this court.

13. The bankruptcy estate owns an interest in various entities. The estate owns 100% of the membership interest in Pilotage Holdings, LLC, which in turn holds:

- a. a 100% membership interest in MarionAV, LLC;
- b. a 51% membership interest in Come On Dawg, LLC;
- c. a 100% membership interest in Marionaux Law Firm, APLLC;
- d. a 100% membership interest in Insanis, LLC;
- e. an undetermined percentage interest in Galenfeha, Inc.;
- f. a 100% membership interest in LHM2 Oil & Gas, LLC;
- g. a 50% membership interest in LHM Holdings, LLC;
- h. a 100% membership interest in Zero Tango Echo, LLC;
- i. a 50% membership interest in Wallace Lake Marionaux, LLC (which holds a 51% membership interest in River Cities Machine, LLC and an unknown membership interest in Red River Range, LLC);

- j. a 100% membership interest in Marioneaux Auto Group, LLC; and
- k. a 50% membership interest in Marioneaux Management, LLC, which, in turn, owns a 1.496409% general partnership interest in Marioneaux Properties, L.P., a Texas limited partnership.

14. The bankruptcy estate also owns a 50% membership interest in Marioneaux & Williams, A Texas Professional Corporation, which owns a 100% interest in Marioneaux & Williams, LLC, a Louisiana limited liability company (the law firm through which Debtor practices law).

15. The bankruptcy estate also holds an indirect interest, through Debtor's father's succession, in the following entities (the "**Succession Entities**"):

- a. a 50% membership interest in Marioneaux Management, LLC (the other 50% interest is owned by Pilotage Holdings, LLC);
- b. a 48.86273% limited partnership interest in Marioneaux Properties, L.P. (in which Marioneaux Management, LLC serves as the general partner and) which, in turn, owns:
 - i. a 100% membership interest in HBM Interests, LLC;
 - ii. a 100% membership interest in HBM CMS, LLC; and
 - iii. a 100% membership interest in HBM Oil & Gas, LLC.
- c. a 100% membership interest in LHM Oil & Gas, LLC;
- d. a 50% membership interest in LHM Holdings, LLC;
- e. a 50% membership interest in Wallace Lake Marioneaux, LLC; and
- f. a 50% membership interest in 80 Acres, LLC.

16. These entities own significant assets that have substantial value.

17. Mary Sue Marioneaux owns interests in various Succession Entities, including a 49.640861% limited partnership interest in Marioneaux Properties, L.P.

Conclusions of Law and Analysis

A. Jurisdiction, venue and core status

This court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334(b) and by virtue of the reference by the district court pursuant to 28 U.S.C. § 157(a) and LR 83.4.1. Venue is proper in this district. 28 U.S.C. §§ 1408 and 1409(a). This matter constitutes a “core” proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (B) and (O).

B. The Proposed Compromise

Debtor’s aunt, Mary Sue Marioneaux, reached a settlement with the bankruptcy trustee to resolve all her claims. She appears in this case in her individual capacity as a judgment creditor, as co-trustee of her trust (which is also a judgment creditor) and as the provisional administrator of Debtor’s father’s succession. By virtue of the Trust Judgment, she is a creditor in this bankruptcy case and in the Succession Proceeding.

The proposed compromise would settle all of her claims, including: 1) her proof of claim filed in this bankruptcy case (which is based on the Trust Judgment), 2) any claims that she may have against Debtor or the bankruptcy estate arising out of Debtor’s prior exclusive control over Marioneaux Properties, LP (which is a limited partnership that is co-owned by her, the bankruptcy estate and the

Succession estate), and 3) any claim that she or the Succession may have arising from Debtor's alleged breach of his duties as the independent administrator of his father's Succession and/or in his capacity as manager of various Succession Entities (the "**Additional Claims**").²

The proposed compromise is set forth in a "Term Sheet." It is complex. The compromise would transfer money and property from the Succession (but not the bankruptcy estate) to the judgment creditors. It would also result in the Succession transferring money and property to the bankruptcy estate which could not be used to satisfy the claims of the judgment creditors, except under certain limited conditions. Approval of the compromise would also cause the dismissal of the appeal of the Trust Litigation.

Specifically, the proposed compromise would:

- a. dismiss the appeal of the Trust Judgment;
- b. allow, in full, the proof of claim filed by the judgment creditors in the amount of \$8,391,724.92, subject to a post-petition partial credit in the amount of \$146,725.50;
- c. permit the trustee to continue the liquidation of Marioneaux Management, LLC with net proceeds disbursed to the bankruptcy estate and the provisional administrator in accordance with their respective membership interests;
- d. dissolve and liquidate Marioneaux Properties, LP, with net proceeds disbursed to the bankruptcy estate (via its interest in the liquidation of Marioneaux Management), the Succession, and Mary Sue Marioneaux as the co-trustee of her Trust;
- e. assign to the bankruptcy estate (1) \$500,000 in cash, plus (2) the

² The trustee's motion itemizes, with supporting evidence, many of the Additional Claims, and estimates that those claims exceed \$1,000,000.

Succession's membership interest in LHM Holdings, LLC, each free and clear of any claim of the judgment creditors or any other amount owed by Debtor to the Succession, but not free and clear of any alleged criminal restitution obligation of Debtor to the judgment creditors or the Succession;

- f. release Debtor and the bankruptcy estate from the obligation to return (1) 49.640861% of Debtor's interest in the DeSoto Parish Property pursuant to the third paragraph of the Trust Judgment and (2) 27.5555% of the income from December 31, 2018 until March 2022, attributable to the portion of the Debtor's interest in the DeSoto Parish Minerals, which Debtor previously returned to the LMJM Trust, pursuant to paragraph 5 of the Trust Judgment dated August 29, 2017;
- g. release the judgment creditors' judicial lien upon Debtor's Texas residence (but not their claim for non-exempt proceeds from any sale of that residence as to any unsecured portion of their proof of claim);
- h. release the judgment creditors' judicial mortgage on any interest of the Debtor in any immovable property located in DeSoto Parish arising from the recordation of the Trust Judgment in DeSoto Parish;
- i. reserve the judgment creditors' right to file claims under section 503(b)(3)(A) and (D) and agree to subordinate any fees awarded to all other allowed administrative claims, with the trustee agreeing not to object except as to fees and expenses considered by him not to be actual, necessary, or beneficial to the bankruptcy estate;
- j. other than the allowed claim filed by the judgment creditors, release the judgment creditors' and Succession's other claims against the Debtor and the Estate except: (1) for claims against Debtor in the pending adversary proceeding; (2) obligations under the Term Sheet; (3) claims for taxes, interest or penalties owed by the Succession as a result of any alleged failure of Debtor to report income attributable to the Succession and pay taxes owed by the Succession from July 16, 2016 until March 29, 2022; (4) any alleged criminal restitution claim against the Debtor; (5) claims against the Debtor, the Estate, and entities in which the Succession has an interest arising out of any alleged liability of the Debtor arising out of alleged disproportionate distributions that he received, directly or indirectly, from entities other than LHM Holdings, in which the Succession has an interest and which under applicable law or IRS requirements require a reallocation of member interests in such entities;
- k. provide a "waterfall" distribution scheme for satisfaction of the claim filed

by the judgment creditors, which includes utilization of an appraisal of the DeSoto Parish Property;

- l. include reciprocal releases; and
- m. address procedural implementation steps.

C. Standards to Evaluate the Proposed Compromise

Bankruptcy Rule 9019 authorizes the trustee to seek an order approving a compromise or a settlement. Specifically, the Rule provides that “[o]n motion by the trustee and after notice and a hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.” Fed. R. Bankr. P. 9019(a).

Compromises in bankruptcy are a “normal part of the process of reorganization, oftentimes desirable and wise methods of bringing to a close proceedings otherwise lengthy, complicated, and costly.” *Official Comm. of Unsecured Creditors v. Cajun Elec. Power Coop., Inc. (In re Cajun Elec. Power Coop., Inc.)*, 119 F.3d 349, 354 (5th Cir. 1997) (citing *Rivercity v. Herpel (In re Jackson Brewing Co.)*, 624 F.2d 599, 602 (5th Cir. 1980)). Courts are empowered to approve a compromise under Rule 9019(a) if the trustee or debtor in possession meets its burden to show that it is “fair and equitable and in the best interest of the estate.” *Jackson Brewing Co.*, 624 F.2d at 602.

When analyzing whether to approve a settlement under Rule 9019, this court must determine whether it is “fair equitable” using the following test:

Five factors inform the “fair and equitable” analysis: (1) the probability

of success in the litigation, with due consideration for the uncertainty in fact and law; (2) the complexity and likely duration of the litigation and any attendant expense, inconvenience, and delay, including the difficulties, if any, to be encountered in the matter of collection; (3) the paramount interest of the creditors and a proper deference to their respective views; (4) the extent to which the settlement is truly the product of arm's-length bargaining and not fraud or collusion; and (5) all other factors bearing on the wisdom of the compromise.

In re Moore, 608 F.3d 253, 263 (5th Cir. 2010), citing *In re Jackson Brewing Co.*, 624 F.2d 599, 609 (5th Cir. 1980) and *Matter of Foster Mortg. Corp.*, 68 F.3d 914, 917 (5th Cir. 1995).

Evaluating a Rule 9019 settlement does not require a bankruptcy court to “conduct a mini-trial to determine the probable outcome of any claims waived in the settlement,” but rather the court must “apprise [itself] to the relevant facts and law so that [it] can make an informed and intelligent decision.” *In re Age Refining, Inc.*, 801 F.3d 530, 541 (5th Cir. 2015) (citing *In re Cajun Elec. Power Coop.*, 119 F.3d at 356). “The trustee, or debtor in possession, bears the burden of establishing that the balance of the *Jackson Brewing* factors supports a finding that the compromise is fair, equitable, and in the best interests of the estate. This burden is not a high one, and the debtor in possession need only show that [its] decision falls within the range of reasonable litigation alternatives.” *In re Express Grain Terminals, LLC*, No. 21-11832-SDM, 2022 WL 1311533, at *15 (Bankr. N.D. Miss. May 2, 2022) (internal citations and quotation marks omitted).

The court will address each factor.

1. The probability of success in the litigation

The judgment creditors filed a proof of claim in this bankruptcy case. The proposed settlement would result in the allowance of the claim. The claim is based

on the final judgment rendered by the state court. The judgment is on appeal. Thus, assessing the probability of success in the litigation requires an assessment of the merits of the appeal filed by Debtor.

The appeal has been fully briefed and argued. According to the briefs, the issues include a challenge to the sufficiency of the pleadings (Debtor contends that the pleadings failed to adequately allege fraud), the sufficiency of the evidence (Debtor challenges the trial court's findings about the adequacy of the evidence) and the applicability of trust law (Debtor claims that he was not a trustee of the applicable trusts involved in the litigation).

At the urging of Debtor's counsel, this court closely reviewed the appellate briefs submitted by the parties. After considering the appellate briefs, the applicable law, and the findings of the trial court, this court determines there is a high probability that the Trust Judgment would be affirmed on appeal.

This court's determination about the probability of success on the merits is also consistent with the trustee's determination. At the hearing, the trustee (who is a lawyer) testified that he reviewed the appellate briefs and consulted with his own counsel regarding the strengths and weaknesses of the appeal. Thereafter, the trustee concluded that there is a high probability that the Trust Judgment would be affirmed on appeal.

In reaching its determination regarding the probability of success, this court apprised itself of all facts necessary for an intelligent and objective opinion of the probabilities of ultimate success should the claim be litigated on appeal. The facts,

with citations to the record, are outlined in the trustee's motion to approve the compromise and will not be repeated here. They are also set forth in the appellate briefs which have been filed into the record of this bankruptcy case.

For these reasons, the first factor leans in favor of approval of the compromise.

2. The complexity and likely duration of the litigation

The second factor requires this court to consider the complexity and likely duration of the litigation and any attendant expense, inconvenience, and delay, including the difficulties, if any, to be encountered in the matter of collection.

Collection is not an issue in this case because even if Debtor were to be successful on the merits, there would be nothing for him (or the bankruptcy trustee) to collect. Debtor is a defendant in this matter. The only parties at risk of encountering collectability issues are the judgment creditors.

With respect to the complexity and likely duration of the litigation, this court finds that the issues presented in the appeal are complex and there is a high likelihood that the appeal would be lengthy, expensive, inconvenient, and cause delay if the appeal continues. Although the appellate briefs have been submitted to the Louisiana First Circuit Court of Appeal, the ruling from that court would likely be appealed to the Louisiana Supreme Court. Such an appeal would undoubtedly be expensive and could cause significant delays.

By remote chance, if the appeal results in a remand, the result would be more litigation, more discovery, more uncertainty and more expense. The Trust Litigation

has been pending for over six (6) years and the parties have incurred well over \$2 million in litigation expenses. Continuing that litigation would be, without question, expensive and time consuming.

At the hearing, the trustee expressed his desire to administer the estate as expeditiously as is compatible with the best interests of all parties in interest. If the settlement is approved, it would result in a speedy resolution of the proof of claim filed by the judgment creditors and promote an expeditious administration of the estate.

Accordingly, the second factor weighs in favor of approving the compromise.

3. The interests of the creditors with proper deference to their reasonable views

The third factor requires the court to consider the paramount interest of the creditors and to give proper deference to their respective views. In this case, no creditor objected to the proposed settlement. In fact, the primary creditor in the case is one of the settling parties (Mary Sue Marioneaux). Nevertheless, this factor is the most contested factor in the analysis.

While the “paramount” status afforded to the interest of creditors recognizes that the decision to settle or litigate is an investment decision that risks their money and their rights, the court may not ignore the interests of non-creditors when their rights are impacted. When a proposed compromise implicates the interests of a non-settling third party (including the pecuniary interests of a debtor), the court must consider the third party’s interests in deciding whether to approve the compromise. *In re AWECO, Inc.*, 725 F.2d 293, 298 (5th Cir. 1984) (“[e]ven if a

settlement is fair and equitable to the parties to the settlement, approval is not appropriate if the rights of others who are not parties to the settlement will be unduly prejudiced”); *In re Zale*, 62 F.3d 746, 764 (5th Cir. 1995) (“When third parties are affected, we scrutinize carefully the fairness of the hearing afforded.”); *Cullen v. Riley (In re Masters Mates & Pilots Pension Plan)*, 957 F.2d 1020, 1026, 1031 (2nd Cir. 1992) (holding that “where the rights of one who is not a party to a settlement are at stake, the fairness of the settlement to the settling parties is not enough to earn the judicial stamp of approval,” and requiring determination that “no one has been set apart for unfair treatment”).

The issues involved in the appeal are complex and the stakes are high. Debtor’s interests are impacted by the proposed compromise. If Debtor is correct about any of his appellate challenges, the judgment would be reversed, thereby eliminating a claim against him and the bankruptcy estate exceeding \$8 million. If the claim is eliminated, there is substantial likelihood that Debtor would be entitled to a recover the residual estate, after payment of all allowed claims. If that happened, Debtor would likely recover money and property that have substantial value. If, however, the claim is allowed as filed, Debtor would almost certainly recover nothing from the estate. Thus, Debtor has a pecuniary interest in the outcome of the appeal and the allowance or disallowance of the proof of claim.

In this case, the court must determine if the settlement is fair to the non-settling parties. Simply put, this court must determine if Debtor’s interests are being *unfairly* prejudiced by the proposed compromise. For the reasons that follow,

the court concludes that his interests will not be *unfairly* prejudiced if the compromise is approved.

First, the interests of creditors and debtors should not be treated equally. Putting creditors' interests ahead of a debtor's interests, does not *unfairly* prejudice the debtor. The hierarchy of the Bankruptcy Code provides that the interests of creditors are paramount to the interests of debtors. The trustee and the court must act in accordance with this hierarchy.

Second, the proposed compromise contains provisions that are beneficial to Debtor. For example, the compromise would release Debtor from his obligations under the Trust Judgment to return to the LMJM Trust the designated percentage of his interest in certain immovable property located in DeSoto Parish and a certain percentage of the income he received from certain minerals from December 31, 2018, through March 2022.

Finally, the compromise would result in the bankruptcy estate receiving from the Succession: (1) \$500,000 in cash, plus (2) the Succession's membership interest in LHM Holdings, LLC. Those assets may not be used to pay any portion of the claims held by the judgment creditors (other than in the case of any criminal restitution obligation of Debtor). That means those assets or the proceeds derived from their disposition would be distributed to Debtor assuming all his other creditors, except the judgment creditors and the Succession, have been paid. In other words, as part of the compromise, the bankruptcy estate is (a) receiving significant assets from the provisional administrator of the Succession and (b) being

released from certain obligations under the Trust Judgment. Neither the bankruptcy estate nor Debtor would receive any of these benefits without approval of the compromise.

The court closely scrutinized the fairness of the proposed compromise and determined that it does not unfairly prejudice the Debtor's interests. Thus, the court finds that the third factor weighs in favor of approving the proposed settlement.

4. Extent to which the settlement is the product of arm's length bargaining.

This factor weighs in favor of approval of the compromise. No party has challenged whether the settlement is the product of arm's length bargaining. Moreover, there is no evidence of collusion or fraudulent behavior by the settling parties.

5. Other factors bearing on the wisdom of the compromise

The court finds that approval of the compromise would 1) promote the integrity of the judicial system, 2) provide the bankruptcy estate with an additional pool of assets available for distributions to the holders of allowed claims (exclusive of claims held by the judgment creditors), and 3) eliminate over \$1,000,000 of the Additional Claims arising from Debtor's misconduct as the independent administrator of the Succession.

The court also finds that the proposed compromise complies with the Fifth Circuit's standards applicable to pre-plan settlements. *See, In re AWECO, Inc.*, 725 F.2d 293 (5th Cir. 1984). In *AWECO*, the Fifth Circuit held that the absolute priority rule applies to pre-plan settlements, concluding that "a bankruptcy court

abuses its discretion in approving a [pre-plan] settlement with a junior creditor unless the court concludes that priority of payment will be respected as to objecting senior creditors.” *Id.* at 298. In this case, the court concludes that the costs of the settlement will not deplete the estate in any manner (because the assets used to satisfy the judgment creditors’ claim will come from the Succession, not the bankruptcy estate) nor will it jeopardize the priority position of any senior creditor or administrative creditor.

The court concludes that the proposed compromise’s distribution scheme complies with the Bankruptcy Code’s priority scheme. The court is satisfied that the parties to the proposed compromise have not agreed to the terms of a settlement to avoid the priority strictures of the Bankruptcy Code.

Conclusion

The factors established by the Fifth Circuit weigh heavily in favor of approving the compromise and demonstrate to the court that the compromise is well within the range of reasonableness. The court concludes that the settlement as a whole is fair and equitable and in the best interest of the estate. The settlement is reasonable in relation to the likely outcome of the litigation and it properly balances the interests of all stakeholders with the likely pitfalls of litigation.

The trustee properly exercised his reasonable business judgment to determine that the benefits of the settlement outweigh its costs after considering the probability of success in litigating the claims, the complexity and likely duration of the litigation and related expenses and inconvenience, and all other factors

bearing on the wisdom of the compromise, including the interests of the creditors and non-settling parties. In addition, this court apprised itself of all facts necessary to evaluate the settlement and made an informed and independent judgment about the settlement.

For the reasons noted above, the court hereby approves the settlement.

This ruling constitutes findings of fact and conclusions of law pursuant to Fed. R. Bankr. P. 7052 made applicable by Fed. R. Bankr. P. 9014(c). The court will enter a separate order in accordance with this ruling.

###

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Recipients of Notice of Electronic Filing:

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TOTAL: 9

Recipients submitted to the BNC (Bankruptcy Noticing Center):

db	Lucien Harry Marioneaux, Jr.	2764 Stonewall--Frierson Rd.	Stonewall, LA 71078
aty	David Samuel Rubin	Butler Snow LLP	445 N. Blvd Suite 300 Baton Rouge, LA 70802

TOTAL: 2

WRITING SAMPLE

The following writing sample is an office memorandum completed during my clerkship with civil defense firm Glassman, Wyatt, Tuttle & Cox in Memphis, Tennessee. While I made edits prior to submission, no third-party edited this memorandum except to redact confidential information.

This memorandum examines whether, under Tennessee law, a court would impose a resulting or constructive trust based on the parties' real estate business dealings.

MEMORANDUM

TO: Richard Glassman
FROM: Danielle Fong & Alexxas Johnson
DATE: June 9, 2021
FILE: REDACTED
RE: Constructive / Resulting Trust

QUESTION PRESENTED

Under Tennessee law, did the parties establish a resulting or constructive trust during their real estate business dealings?

BRIEF ANSWER

Under Tennessee law, it is not likely that a court will find a resulting trust between the Plaintiff (now deceased) and the Defendant; however, there is more evidence to support the finding of a constructive trust.

FACTS

The Plaintiff (now deceased) and the Defendant were long-time friends and business partners. The Defendant is in the business of dealing diamonds as well as real estate. According to the Defendant, he and the Plaintiff were 50/50 partners on at least six (6) rental properties despite some documentation stating that the Plaintiff was to be sixty percent (60%) owner and the Defendant being forty percent (40%) owner. The Defendant stated that he and the Plaintiff were partners in multiple business industries. Following the Plaintiff's death, his brother brought suit against the Defendant to recover monies owed to the Plaintiff as a result of he and the Defendant's partnerships.

DISCUSSION

Constructive trusts and resulting trusts are equitable remedies that a court imposes to prevent unjust enrichment. *Story v. Lanier*, 166 S.W.3d 167, 184 (Tenn. App. 2004). Courts may enforce both forms of implied trusts upon real estate. *Id.* at 184-85. Tennessee courts require a higher degree of proof when a party seeks to establish a trust in real property based on parol evidence. *See Gray v. Todd*, 819 S.W.2d 104, 108 (Tenn. Ct. App. 1991). While both types of trusts may be proved by parol evidence, both must be established by clear and convincing evidence. *Story*, 166 S.W.3d at 184-85.

A constructive trust is one created by equity to satisfy the demands of justice. *Akers v. Gillentine*, 231 S.W.2d 369, 371 (1948). A constructive trust arises against one who:

. . . by fraud, actual or constructive, by duress or abuse of confidence, by commission of wrong, or by any form of unconscionable conduct, artifice, concealment, or questionable means, or who in any way against equity and good conscience, either has obtained or holds the legal title to property which he ought not, in equity and good conscience hold and enjoy.

Harris v. Smith, No. E201900906COAR3CV, 2020 WL 1893640, at *2 (Tenn. App. Apr. 16, 2020) (quoting *Livesay v. Keaton*, 611 S.W.2d 581, 584 (Tenn.App.1980) (citation omitted)). There is no requirement that a “bad act” by the beneficiary occur for a constructive trust to arise. *Jenkins Subway, Inc. v. Jones*, 990 S.W.2d 713, 725 (Tenn. Ct. App. 1998); *Roach v. Renfro*, 989 S.W.2d 335 (Tenn. Ct. App. 1998).

A court may impose a constructive trust in four situations: (1) where a person procures the legal title in violation of some duty, express or implied to the true owner; (2) where title to the property is obtained by fraud, duress, or other inequitable means; (3) where a person uses some relationship or influence to obtain legal title upon more advantageous terms than could be otherwise obtained; or (4) where a person acquires property knowing that another is entitled to its

benefits. *Arnold v. Bowman*, No. E2004-01151-COA-R3-CV, 2005 WL 1488679, at *6 (Tenn. Ct. App. June 23, 2005) (citing *Tanner v. Tanner*, 698 S.W.2d 342, 345-46 (Tenn. 1985)).

While a constructive trust is substantively like a resulting trust, resulting trusts typically arise when there is a legal presumption that the parties intended to create a trust. *Story*, 161 S.W.3d at 184. A resulting trust is defined by courts as:

[A]rising from the nature or circumstances of consideration involved in a transaction whereby one person becomes invested with a legal title but is obligated in equity to hold his legal title for the benefit of another, the intention of the former to hold in trust for the latter being implied or presumed as a matter of law, although no intention to create or hold in trust has been manifested, expressly or by inference, and there ordinarily being no fraud or constructive fraud involved.

Id. (quoting *In re Estate of Nichols*, 856 S.W.2d 397, 401 (Tenn. 1993) (citations omitted)).

In other words, a resulting trust arises “where the legal estate is disposed of, or acquired, *without* bad faith, and under such circumstances that [e]quity infers or assumes that the beneficial interest in said estate is not to go with the legal title.” *Harwell v. Watson*, No. E2003-01796-COA-R3CV, 2004 WL 1434505, at *3 (Tenn. App. June 25, 2004) (emphasis added). Resulting trusts are also known as “presumptive trusts,” because the law presumed the trust was “intended by the parties from the nature and character of their actions.” *Browder v. Hite*, 602 S.W.2d 489, 492 (Tenn. Ct. App. 1980). Like a constructive trust, the party alleging the existence of a resulting trust must prove its existence by clear and convincing evidence. *Saddler v. Saddler*, 59 S.W.3d 96, 99 (Tenn. Ct. App. 2000); *Rowlett v. Guthrie*, 867 S.W.2d 732, 735 (Tenn. Ct. App. 1993); *Wardell v. Dailey*, 674 S.W.2d 293, 295 (Tenn. Ct. App. 1984).

Generally, resulting trusts arise “(1) on a failure of an express trust or the purpose of such a trust, or (2) on a conveyance to one person on a consideration from another,” or (3) in circumstances that a court of equity decrees such to prevent a “failure of justice.” *Story*, 166 S.W.3d at 184 (Tenn. App. 2004). The most common circumstance in which a resulting trust

arises involves the purchase of property where one party pays consideration and the title vests in another party. *Keeton v. Daniel*, No. M2005-01199-COA-R3CV, 2006 WL 2818238, at *5 (Tenn. App. Oct. 2, 2006); *see Browder v. Hite*, 602 S.W.2d 489, 492 (Tenn. Ct. App. 1980) (including in a list of circumstances giving rise to a trust “[w]here the purchaser pays for the land but takes the title, *in whole or in part*, in the name of another”) (emphasis added). The theory underlying the remedy of a resulting trust in those situations is explained as:

It is said that the source and underlying principle of all resulting trusts is the equitable theory of consideration. That theory is that the payment of a valuable consideration draws to it the beneficial ownership; that a trust follows or goes with the real consideration, or results to him from whom the consideration actually comes; that *the owner of the money that pays for the property should be the owner of the property*. Pomeroy's Eq. Jur. (5th ed), secs. 981, 1031, 1037; 2 Lawrence on Eq. Jur. (1929 ed.), sec. 565 (emphasis added).

Smalling v. Terrell, 943 S.W.2d 397, 400 (Tenn. Ct. App. 1996); *Livesay*, 611 S.W.2d at 584; *Greene v. Greene*, 272 S.W.2d 483, 487 (Tenn. 1954).

A constructive trust is the most likely remedy that the court may award in this case. While there are some factors that weigh in favor of a resulting trust, there is not sufficient evidence does not suggest that the Plaintiff and the Defendant intended to create a trust. There is evidence that the Plaintiff paid consideration for some properties, and the Defendant admits himself that he and the Plaintiff were partners in their real estate dealings. At most, there is a reasonable inference that, because the Plaintiff and the Defendant conducted so much business together, that they jointly owned property together, or intended to own it together (with the Defendant's name on the deed, and the Plaintiff financially invested).

A constructive or resulting trust can be established by parol evidence, but it “generally requires a greater degree of proof than a mere preponderance of the evidence.” *Harris v. Smith*, 2020 WL 1893640, at *4 (quoting *Browder v. Hite*, 602 S.W.2d 489, 493 (Tenn. Ct. App. 1980)).

In the present case, the Defendant testifies repeatedly in his deposition that he and the Plaintiff's business was by "word of mouth" or done "by shaking hands," and that they were "50/50" partners in all their joint business dealings. Def. Dep., at pp. 23-24, 40-41, 47, 50, 62-63, 103, 125 (Nov. 19, 2018). This evidence will support the finding of a constructive or resulting trust. However, constructive and resulting trusts cannot be based on the unsupported testimony of a party. *Harris v. Smith*, 2020 WL 1893640, at *4 (quoting *Gray v. Todd*, 819 S.W.2d 104, 109 (Tenn. Ct. App. 1991)). Therefore, the Plaintiff must establish a constructive or resulting trust with other evidentiary bases.

Rent statements, income and expense spreadsheets on investment properties, bank statements, and wire transfers of large sums of money support the inference that the Plaintiff and the Defendant owned investment properties together. Exhibits A1014, A1004, A1009-11, A1002; Exhibits A1031-35; Def. Dep., at pp. 24-25, 27-28, 30, 33, 37-38, 45, 61-62, 101-03, 105, 109 (Nov. 19, 2018). Checks and deposit receipts show that the Plaintiff paid the Defendant \$30,000 in 2001, \$11,064 in 2001, \$48,200 in two separate transfers in 2009, and \$3,693 in 2010. Def. Dep., at pp. 89-96 (Nov. 19, 2018). The purpose of these payments remains vague and not easily attributable to real estate, and throughout the deposition, even the Defendant is not certain of the reason for each transaction. Def. Dep., at pp. 89-92 (Nov. 19, 2018). He first admits that he does not know if he used the Plaintiff's money to purchase properties. Def. Dep., at p. 38 (Nov. 19, 2018). The Defendant then changes his story and avers the wire transfers were for other ventures in gold and in E-Trade. Def. Dep., at pp. 42-44, 82, 94-95, 97-98, 109, 125 (Nov. 19, 2018). He provided no documentation to show the wire transfers were for any other purpose than real estate. Def. Dep., at pp. 42-44, 82, 94-95, 97-98, 109, 125 (Nov. 19, 2018). The Defendant

also claims that the Plaintiff “gave away” his interest in the properties, citing the Plaintiff’s “silence” as his proof. Def. Dep., at p. 64 (Nov. 19, 2018).

The ambiguous nature of the wire transfers does not weigh in favor of a constructive or resulting trust, but it certainly demonstrates the Defendant’s unreliability as a witness to his transactions with the Plaintiff. The deposition and evidence demonstrate that both the Plaintiff and the Defendant conducted a lot of business together, and that they were partners in each venture. It is reasonable to infer that some of these transactions, especially the rent statements and the notarized document establish the Plaintiff as a joint owner of two properties.

The submitted documents and the Defendant’s testimony help establish the existence of a constructive trust. The Defendant arguably “acquire[d] property knowing that another is entitled to its benefits.” *Arnold*, 2005 WL 1488679, at *6. The deeds to the properties in dispute are all in the Defendant’s name, even though the Defendant admits that the Plaintiff contributed to the property financially. Def. Dep., at pp. 24-25, 27-28, 30, 33, 37-38, 45, 101-02, 105, 109 (Nov. 19, 2018). Several documents demonstrate the Plaintiff obtained some interest in at least four properties listed in the Defendant’s name. For example, the Defendant prepared and notarized a document citing the Plaintiff as holding a sixty percent (60%) “majority share” interest in two properties on September 22, 2003. Exhibit A1001; Def. Dep., at pp. 36, 55 (Nov. 19, 2018). The document states that the Plaintiff paid \$45,750 towards the ownership of the two properties. Exhibit A1001; Def. Dep., at pp. 36, 55 (Nov. 19, 2018). The Defendant corroborated the notarized document by testifying at several points in his deposition that he and the Plaintiff owned several properties as partners. Def. Dep., at pp. 15, 23-24, 33, 62-63, 103 (Nov. 19, 2018). The Defendant notarized document, taken together with the rent statements and the multiple wire transfers, support the inference of a constructive trust.

Third, the Defendant “use[d] some relationship or influence to obtain legal title upon more advantageous terms than could be otherwise obtained.” *Arnold*, 2005 WL 1488679, at *6. The Defendant testified that the Plaintiff was his “best friend,” that they were “together in everything,” and who have “always done business [together].” Def. Dep., at pp. 11, 13-14, 52-53, 125 (Nov. 19, 2018). His testimony detailed several other businesses the two engaged in, including stocks, joint e-Trade account, real estate in Thailand, gold, and jewelry. Def. Dep., at pp. 29, 41-44, 82, 90-91, 97-99, 125 (Nov. 19, 2018). A possible argument may be that the Defendant took advantage of the close relationship between him and the Plaintiff to obtain the investment properties they jointly owned. These statements by the Defendant in his deposition support establishing a resulting trust by showing his intention to share the properties with the Plaintiff. However, without more facts, there is not much evidence in the Defendant’s deposition testimony to support this argument.

Lastly, it is not likely that the court will impose a resulting trust. The facts of this case do not support that there was “a failure of an express trust or the purpose of such a trust” in which a court may impose this type of remedy. *Story*, 166 S.W.3d at 184. However, a court may consider the notarized document and payment as “a conveyance to one person on a consideration from another,” in favor of creating a resulting trust. Exhibit A100; *Story*, 166 S.W.3d at 184. However, the Defendant claimed that he sent the \$45,750 back to the Plaintiff. Def. Dep., at pp. 16, 25, 28, 31, 37, 40, 61 (Nov. 19, 2018). As evidence of his repayment, the Defendant stated that “since 2003, [the Plaintiff] never asked me for the money.” Def. Dep., at p. 40 (Nov. 19, 2018). The Defendant did not provide any other evidence of a repayment to the Plaintiff, despite his promise to do so. Def. Dep., Late-Filed Exhibit No. 2, No. 3, No. 4, pp. 92-94, 99-100 (Nov. 19, 2018).

This again contradicts the documentary evidence and further demonstrates the Defendant's unreliability as a witness to his transactions with the Plaintiff.

CONCLUSION

For these reasons, under Tennessee law, the most likely remedy that a court will award is a constructive trust. The Defendant repeatedly admitted to owning real estate with the Plaintiff, and that the two were equal partners in all of their business dealings. The documentary evidence showing large wire transfers, income statements on investment properties, rent statements, and a notarized letter stating that the Plaintiff had a 60% interest in two properties support the finding of a constructive trust. It is not likely that the court will find sufficient support for a resulting trust. The supporting evidence for a resulting trust shows that the Defendant and the Plaintiff intended to conduct business as equal partners, and that the Plaintiff paid consideration for some of the properties. However, there is no evidence that the two intended to create an implied trust.

Applicant Details

First Name	Astrid
Last Name	Fuentes
Citizenship Status	U. S. Citizen
Email Address	astridfuentes@my.untDallas.edu
Address	<div> Address Street 1819 Boyd City Dallas State/Territory Texas Zip 75224 </div>
Contact Phone Number	214-868-9860

Applicant Education

BA/BS From	Tufts University
Date of BA/BS	May 2014
JD/LLB From	UNT Dallas College of Law
	https://lawschool.untDallas.edu/
Date of JD/LLB	May 13, 2023
Class Rank	School does not rank
Law Review/Journal	Yes
Journal(s)	Accessible Law
Moot Court Experience	No

Bar Admission**Prior Judicial Experience**

Judicial Internships/Externships	Yes
Post-graduate Judicial Law Clerk	No

Specialized Work Experience

Recommenders

Jacobson, Loren
loren.jacobson@untDallas.edu

Furgeson, Royal
royal@furgesonlaw.com
214-934-7647

Maslanka, Michael
benjamin.nall@untDallas.edu

This applicant has certified that all data entered in this profile and any application documents are true and correct.

Astrid E. Fuentes

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February 10, 2023

The Honorable Irma. C. Ramirez
United States District Court, Northern District of Texas
1100 Commerce Street, Room 1567
Dallas, TX 75242

Dear Judge Ramirez:

Please accept this letter as an application for the clerk position in your chambers for the 2023–2025 term. After a career in non-profit advocacy and observing the decisive role our courts serve, I decided I wanted my life's work to be in the courtroom. I see legal work as my opportunity to contribute to the Dallas community. It would be an honor to begin my legal career in service to my hometown through your chambers, especially considering your strong record of public service. Through various internships, I have developed a deeper appreciation for the judiciary's tactful role upholding and advancing our legal values. Given your commitment to high-quality and thoughtfully written opinions, clerking in your chambers at the Northern District of Texas would be my first choice for a post-graduate position. I have three areas of experience that would uniquely qualify me to contribute thorough research, analysis, and drafting for your chambers as a clerk.

First, I have completed four judicial internships in county and state courts, in addition to currently externing with your chambers during the Spring of 2023. This prior experience will allow me to smoothly transition into the role of a term clerk. I understand the importance of quickly learning and adopting the writing style and preferences of the respective judge. These internships impressed upon me the value of clear and concise writing and I see it as a vital tool to stimulate confidence and accessibility in our legal system.

Second, my legal internships and past career experience afforded me diverse writing and research opportunities. As a judicial extern and law clerk, I drafted various documents including judicial opinions, research memoranda and complaints. Under the supervision of staff attorneys, I refined my editing skills and improved the clarity of my writing. These experiences developed my writing as both an advocate before the court as well as an extern within the courts. I have sought out additional writing and research opportunities as a Staff Writer for the Accessible Law journal and as a Research Assistant providing updated cases to the Texas Field Guide To Employment Law, respectively. I am confident I am a well-rounded candidate that can draft various writings for the Court.

Lastly, through my employment experience before law school, I developed the critical skills that enable me to be a self-starter and work independently. My work in non-profits reinforced my time-management and attention to detail. As a paralegal, I committed myself to communicate complex legal matters with clients in a comprehensible manner. These skills were critical to my success in law school and will serve as my foundation to produce high quality work in your chambers if I am provided the opportunity.

It would be an honor to contribute to your chambers and my hometown as your clerk. I hope to have the opportunity to interview with you for this position. Thank you for your consideration.

Respectfully,



Astrid E. Fuentes

Astrid E. Fuentes

Dallas, TX | (214) 868-9860 | astridfuentes@my.untDallas.edu | www.linkedin.com/in/astridfuentes

EDUCATION

UNT Dallas College of Law, Dallas, TX May 2023

Juris Doctor, Candidate, GPA: 3.39 Class Band: Top 25%

Honors: Deans List, Spring 2021
Staff Writer, UNT Dallas Law Review Accessible Law

Activities: President, Hispanic Law Student Association
Mock Trial Competition Team

Awards CALI Immigration Award
& CALI Civil Procedure II Award

Honors: Member, Royal Furgeson Phi Delta Phi Legal Society
Student Member, William 'Mac' Taylor Inn of Court
Mexican American Bar Association Scholarship Recipient 2022
Dallas Hispanic Bar Association Judicial Externship & Scholarship Recipient 2022
Dallas Hispanic Law Foundation Scholarship 2021

Tufts University, Medford, MA May 2014

Bachelor of Arts in International Security and Latin American Studies

Activities: Universidad de Chile Study Abroad Program, Fall 2012
Housing Policy Intern, Office of Senator John Kerry, Spring 2012

PROFESSIONAL EXPERIENCE

U.S. District Court for the Northern District of Texas, Dallas, TX January 2023–Present

Judicial Extern to Honorable Judge Irma Carrillo-Ramirez

- Observe conferences, settlement hearings, and sentencing hearings.
- Research range of issues including civil procedure, criminal procedure, and civil matters.

Professor Michael Maslanka, Dallas, Tx January 2023–Present

Research Assistant

- Research recent case law to identify compelling cases for Texas Field Guide to Employment Law.

Carter Law Group, Dallas, TX August 2022–January 2023

Law Clerk

- Drafted pleadings and discovery requests for tort claims and Title VII claims.
- Researched and draft memoranda for personal injury and premises liability claims.
- Observed mediations and client conferences.

Court of Appeals for Fifth District of Texas, Dallas, TX May 2022–July 2022

Judicial Extern to the Honorable Justice K. Dennise Garcia and Justice Partida-Kipness

- Researched jurisdictional issues for writ of mandamus and extrinsic evidence issue for criminal appeal.
- Drafted and edited judicial opinions in collaboration with staff attorney.
- Observed criminal trials, civil trials, and appellate oral arguments.

Planned Parenthood Texas Votes, Dallas, TX September 2021–May 2022

North Texas Community Organizer

- Organized virtual educational workshops on Supreme Court cases and nominations.
- Served as panelist for first Spanish virtual educational workshop.

Comprehensive Resume Available Upon Request

Astrid Fuentes

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Dallas County Probate Court No. 3, Dallas, TX July 2021

Judicial Extern to the Honorable Judge Margaret Jones-Johnson

- Briefed estate distribution cases for Judge's review ahead of hearings.
- Drafted Dismissals for Want of Prosecution Notices for probate and guardianship.
- Consulted with Judge about Temporary Restraining Orders and Continuances.

Law Office of A. Judith Guzman, Dallas, TX July 2021

Law Clerk

- Administratively closed wills and guardianship cases.
- Researched tax property county, civil suit and tax assessor records and public data.
- Drafted Attorney Ad Litem Answers and Reports for property tax cases.

Court of Appeals for Fifth District of Texas, Dallas, TX May 2021–July 2021

Judicial Extern to Honorable Justice Erin Nowell

- Researched and drafted memoranda on legal standards for damages.
- Researched and drafted *Anders* brief.

Planned Parenthood of Greater Texas, Fort Worth, TX June 2018–August 2020

Community Outreach Specialist

- Trained and mobilized 200 volunteers to respond to reproductive health and electoral needs across three counties.
- Doubled college presence and expanded workshops into two new geographic area.
- Created and piloted bilingual, Latino outreach model.

Thomas Price Law, Dallas, TX July 2017–September 2017

Paralegal

- Managed nearly 50 immigration cases.
- Conducted intakes and prepared immigration applications for attorney's review.

Ruth Lane Law, Arlington, TX December 2015–June 2017

Paralegal

- Conducted over 75 client intakes to collect client information to identify legal needs.
- Prepared immigration applications with client statements and supporting documents.
- Trained and managed 2 paralegals and coordinated office calendar for 3 attorneys.

National Hispanic Institute, Maxwell, TX August 2014–September 2015

Program Director

- Organized and managed 3 conferences including logistical planning and curriculum.
- Coordinated with 11 regional chapters throughout Texas for year-long programming.
- Provided President a weekly report of chapters' recruitment and financial progress.

Office of Senator John Kerry, Boston, MA Spring 2012

Housing Policy Intern

- Assessed constituent requests and needs in foreclosure assistance.
- Contacted major banks to intervene in pending evictions and negotiate alternatives.

CURRENT COMMUNITY ENGAGEMENT

Southern Gateway Park Community Advisory Council | Polk-Vernon Neighborhood Association



UNT Dallas COL Unofficial Transcript - review only

Name: Fuentes,Astrid Estrella
Student ID: 10838028

Print Date: 02/02/2023
Student Address: 1819 Boyd St
Dallas, TX 75224-1362

Program: Juris Doctor
07/13/2020: Active in Program
07/13/2020: JURIS DOCTOR Major

Program: Juris Doctor
06/14/2021: Active in Program
06/14/2021: JURIS DOCTOR Law Juris Doctor Major

Academic Program History

			<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>
Term GPA	3.520	Term Totals	15.000	15.000	15.000	52.800

			<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>
Cum GPA	3.480	Cum Totals	31.000	31.000	25.000	87.000

Term Honor: Dean's List

Academic Standing Effective 06/07/2021: Good Standing

Beginning of Law Record

Course	Description	Attempted	Earned	Grade	Points	
LAW 7099	BEDFORD MENTOR PROGRAM	0.000	0.000	P	0.000	
LAW 7100	LAWYERING FUNDAMENTALS	1.000	1.000	P	0.000	
LAW 7104	LEGAL METHODS	1.000	1.000	CR	0.000	
LAW 7301	LEGAL WRITING I	3.000	3.000	B+	9.900	
LAW 7302	CIVIL PROCEDURE I	3.000	3.000	A-	11.100	
LAW 7401	TORTS	4.000	4.000	B+	13.200	
LAW 7407	CONTRACTS	4.000	4.000	P	0.000	
		<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>	
Term GPA	3.420	Term Totals	16.000	16.000	10.000	34.200
		<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>	
Cum GPA	3.420	Cum Totals	16.000	16.000	10.000	34.200

Academic Standing Effective 01/11/2021: Good Standing

Course	Description	Attempted	Earned	Grade	Points	
LAW 7099	BEDFORD MENTOR PROGRAM	0.000	0.000	P	0.000	
LAW 7114	LEGAL RESEARCH I	1.000	1.000	B	3.000	
LAW 7117	LEGAL RESEARCH II	1.000	1.000	A	4.000	
LAW 7203	CIVIL PROCEDURE II	2.000	2.000	A	8.000	
LAW 7213	PROPERTY I	2.000	2.000	B+	6.600	
LAW 7303	LEGAL WRITING II	3.000	3.000	A-	11.100	
LAW 7310	CRIMINAL LAW	3.000	3.000	B	9.000	
LAW 7312	PRACTICE FOUNDATION I	3.000	3.000	A-	11.100	

Fall 2021

Course	Description	Attempted	Earned	Grade	Points
LAW 7214	PROPERTY II	2.000	2.000	A-	7.400
LAW 7313	PRACTICE FOUNDATION II	3.000	3.000	B+	9.900
LAW 7352	LEGAL WRITG III: APPELLATE DRAFT	3.000	3.000	B+	9.900
LAW 7414	CONSTITUTIONAL LAW	4.000	4.000	B+	13.200
LAW 7418	EVIDENCE PRACTICUM	4.000	4.000	B-	10.800
		<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>
Term GPA	3.200	Term Totals	16.000	16.000	51.200
		<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>
Cum GPA	3.370	Cum Totals	47.000	47.000	138.200

Academic Standing Effective 01/06/2022: Good Standing

Spr 2022

Course	Description	Attempted	Earned	Grade	Points
LAW 7119	ADVOCACY SKILLS DEVELOPMENT	1.000	1.000	P	0.000
LAW 7212	IMMIGRATION LAW	2.000	2.000	A+	8.600
LAW 7219	CIVIL RIGHTS	2.000	2.000	A+	8.600
LAW 7315	UBE FAMILY LAW	3.000	3.000	A	12.000
LAW 7317	PROFESSIONAL RESPONSIBILITY	3.000	3.000	B+	9.900
LAW 7323	FEDERAL CRIMINAL PROCEDURE	3.000	3.000	B-	8.100
Course Topic:	Federal Criminal Procedure				
		<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>
Term GPA	3.630	Term Totals	14.000	14.000	47.200
		<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>
Cum GPA	3.433	Cum Totals	61.000	61.000	185.400



UNT Dallas COL Unofficial Transcript - review only

Name: Fuentes,Astrid Estrella
Student ID: 10838028

Term Honor: Dean's List

Academic Standing Effective 06/06/2022: Good Standing

Sum 2022						
Course	Description	Attempted	Earned	Grade	Points	
LAW	7388 EXTERNSHIP SEMINAR	3.000	3.000	P	0.000	
		<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>	
Term GPA	0.000 Term Totals	3.000	3.000	0.000	0.000	
		<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>	
Cum GPA	3.433 Cum Totals	64.000	64.000	54.000	185.400	
Fall 2022						
Course	Description	Attempted	Earned	Grade	Points	
LAW	7V14 FIRST AMENDMENT	2.000	2.000	B+	6.600	
LAW	7V30 SPECIAL TOPICS IN LEGAL EDUCAT	3.000	3.000	A-	11.100	
Course Topic:	Election Law					
Course Topic:	Election Law					
LAW	7287 REMEDIES	2.000	2.000	B+	6.600	
LAW	7327 EMPLOY LAW:	3.000	3.000	B+	9.900	
LAW	7386 Employ Discriminat BAR EXAM SKILLS/STRATEGIE S I	3.000	3.000	B-	8.100	
		<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>	
Term GPA	3.253 Term Totals	13.000	13.000	13.000	42.300	
		<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>	
Cum GPA	3.398 Cum Totals	77.000	77.000	67.000	227.700	

Academic Standing Effective 01/03/2023: Good Standing

Spr 2023						
Course	Description	Attempted	Earned	Grade	Points	
LAW	7V30 SPECIAL TOPICS IN LEGAL EDUCAT	1.000	0.000		0.000	
Course Topic:	Sub Due Process PrivRights Dobb					
Course Topic:	Sub Due Process PrivRights Dobb					
LAW	7127 LAW PRACTICE TECHNOLOGY	1.000	0.000		0.000	
LAW	7321 BUSINESS ASSOCIATIONS	3.000	0.000		0.000	
LAW	7325 UBE WILLS, TRUSTS AND ESTATES	3.000	0.000		0.000	
LAW	7387 BAR EXAM SKILLS/STRATEGIE S II	3.000	0.000		0.000	
LAW	7388 EXTERNSHIP SEMINAR	3.000	0.000		0.000	
		<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>	
Term GPA	0.000 Term Totals	14.000	0.000	0.000	0.000	
		<u>Attempted</u>	<u>Earned</u>	<u>GPA Units</u>	<u>Points</u>	
Cum GPA	3.398 Cum Totals	91.000	77.000	67.000	227.700	
Law Career Totals						
Cum GPA:	3.398 Cum Totals	91.000	77.000	67.000	227.700	

End of UNT Dallas COL Unofficial Transcript - review only



February 22, 2023

The Honorable Irma Carrillo Ramirez
United States Magistrate Judge
United States District Court for the Northern District of Texas
1100 Commerce Street, Room 1567
Dallas, TX 75242

Re: Clerkship Application of Astrid Fuentes

Dear Judge Ramirez,

I am writing to whole-heartedly support the application of Astrid Fuentes for a clerkship in your chambers. Ms. Fuentes is a smart, serious, dedicated law student with strong analytical skills and excellent writing ability. I believe she would make a wonderful law clerk.

It has been my pleasure to be able to teach Ms. Fuentes three times. I had her in Constitutional Law in Fall 2021, Civil Rights Law in Spring 2022, and now have her in my course "Substantive Due Process After *Dobbs*." Ms. Fuentes did very well in Constitutional Law and Civil Rights Law. She got a B+ in Constitutional Law and got an A+—and was tied for the second highest score—in Civil Rights Law. Ms. Fuentes is without exception always prepared for class, has the cases at the tips of her fingers, is engaged in the material, and asks smart, perceptive questions. She is a deep thinker who is clearly passionate about the law. I have absolutely loved having her in class.

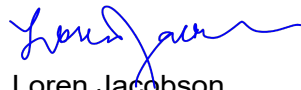
Ms. Fuentes is also an excellent writer. Her essays on my midterms and finals consistently showed clear, cogent writing. In her writing and analysis, Ms. Fuentes is able to get to the point quickly and analyze the issues concisely and persuasively. I don't usually like grading essay questions on exams, but Ms. Fuentes's essays were actually enjoyable to read, were well written, and she generally got excellent scores on them. I believe that she has the ability and the judgment to write excellent bench memos and draft opinions.

I also believe that Ms. Fuentes would make a terrific law clerk because of her personal qualities. First, Ms. Fuentes is serious about her work: she is dedicated and will work hard. Second, she will not take the opportunity given to her to clerk for granted. Finally, she is very professional, but also has a lovely sense of humor and is personable and kind. I know she will get along well with chambers staff and any co-clerks she may have and will ably handle calls from attorneys and others.

I am a former law clerk, having had the opportunity to clerk for Judge Hellerstein on the Southern District of New York and the late Judge Feinberg on the Second Circuit. From my experience, I believe that Ms. Fuentes has the kind of analytical and writing skills and personal attributes that would make her a very successful law clerk.

106 S. Harwood Street • Dallas, Texas 75201

Sincerely yours,



Loren Jacobson
Associate Professor of Law
UNT Dallas College of Law
Tel. 214-571-2412
Email: loren.jacobson@untdallas.edu

March 27, 2023

The Honorable Irma Ramirez
Earle Cabell Federal Building and
United States Courthouse
1100 Commerce Street, Room 1567
Dallas, TX 75242

Dear Judge Ramirez:

Astrid Fuentes has been attending my Inn of Court as a student member from UNT Dallas College of Law. The purpose of this letter is to tell you how impressed I am with her and with her potential.

At our February 2023 Inn of Court meeting, Astrid made a remarkable presentation, telling us about her story as a child of immigrants. She recounted how her mother suffered discrimination in the workplace, but would not take steps to redress the problem, because she did not believe that she had rights as an immigrant. At the time, Astrid was in the third grade, but was already a full-fledged American, explaining to her mother that this country was different and that she was protected under the laws of the country. Astrid refused to let her mother be abused. And, in the end, this is why she is now in law school, to make certain that everyone has the protection of the laws.

Everyone rose in a standing ovation. It was a wonderful presentation and so inspiring.

I was the founding Dean at UNT Dallas College of Law, and I understand that Astrid has recommendations from two of my favorite faculty members at UNT—Professors Loren Jacobson and Mike Maslanka. If they vouch for her, you can be assured that she can do the work of excellence demanded in your chambers.

Please give Astrid consideration. She is worthy of a clerkship.

With best regards,

Royal Furgeson
U.S. District Judge (Retired)
Dean Emeritus, UNT Dallas College of Law
royal@furgesonlaw.com
(214) 934-7647

Royal Furgeson - royal@furgesonlaw.com - 214-934-7647

Dear Judge Ramirez,

Astrid Fuentes asks that I send a letter of recommendation. It is a privilege to do so. Astrid's resume is strong --- from being a full-time reporter for a newspaper in Chile to graduating from Tufts (a world away from rural Texas) to being elected President of the Hispanic Law Student Association here at the law school. All formative experiences. All experiences that speak well of her energy, her interpersonal skills, and of her curious spirit.

But I want to focus on one trait that I observed in my classroom (and in office hours) when she was a student in Employment Discrimination. We cover topics that Astrid feels strongly about—unlawful discrimination, harassment of the powerless, remedies that might be *less than ideal*. But what impressed me was that—despite these personal feelings—she listened carefully to the case facts, the court's rationales, and the ultimate results. She might question the reasoning, but she never pre-judged the reasoning. That's legal maturity and that's what makes for a good lawyer and good lawyering. I believe she would be a valuable resource for you and a credit to the federal court system.

Respectfully,



Michael Maslanka

106 S. Harwood Street • Dallas, Texas 75201 • lawschool.untDallas.edu

Astrid Fuentes

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

JANE DOE N/K/A D.Z.,
Plaintiff,

vs.

WESTLAKE INDEPENDENT
SCHOOL DISTRICT,
Defendant.

CIVIL ACTION NO. 3-20CV55-M

**PLAINTIFF JANE DOE N/K/A D.Z.'s OPPOSITION TO DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT**

Plaintiff Jane Doe N/K/A D.Z. asks the Court to deny Defendant's Motion for Summary Judgment pursuant to Federal Rule of Civil Procedure 56 as to Plaintiff's Title IX claim because there are genuine issues of material fact as to the three elements raised by Defendant's Motion for Summary Judgment.

**This document was written based on the legal precedent as of Spring 2021.*

**PLAINTIFF D.Z.'S OPPOSITION TO DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT**

Page 1

Astrid Fuentes

I. TABLE OF CONTENTS.

[Omitted for brevity.]

II. TABLE OF AUTHORITIES.

[Omitted for brevity.]

III. INTRODUCTION.

The Court should deny Defendant's Motion for Summary Judgment regarding Plaintiff Jane Doe N/K/A D.Z.'s Title IX claim of peer-to-peer harassment. Title IX states that "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance." 20 U.S.C.A. § 1681(a). To establish a Title IX claim, five elements are required: (1) the school district had actual knowledge of the harassment; (2) the harasser was under the district's control; (3) the harassment was on the basis of sex; (4) the harassment was so severe, pervasive, and objectively offense that it effectively barred the plaintiff access to an educational opportunity or benefit; and (5) the district was deliberately indifferent to the harassment. *Davis v. Monroe Cty. Bd. of Educ.*, 526 U.S. 629, 650 (1999); *Sanchez v. Carrollton-Farmers Branch Indep. Sch. Dist.*, 647 F.3d 156, 165 (5th Cir. 2011). Westlake Independent School District ("Westlake" or "Defendant") does not dispute the first and second element in their motion for summary judgment. Defendant fails to meet its burden of proof that there are no genuine issues of material fact as to the third, fourth and fifth elements of this Title IX claim.

First, a genuine issue of material fact exists with respect to whether Plaintiff's harassment was on the basis of sex. A.B.'s verbal harassment of Plaintiff coupled with physical touching of her private parts went beyond name calling and sufficiently establish, at a minimum, a genuine issue of material fact as to whether the conduct was sex-based harassment.

**PLAINTIFF D.Z.'S OPPOSITION TO DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT**

Page 2

Astrid Fuentes

Second, a genuine issue of material fact exists with respect to whether Plaintiff was deprived of access to an educational opportunity or benefit. The evidence demonstrates Plaintiff's grades and physical health suffered in response to the harassment. Furthermore, Plaintiff resorted to online education at the behest of the school administration following escalating incidences with A.B. Accordingly, there is, at minimum, a genuine issue of material fact as to whether Plaintiff was deprived of access to an educational opportunity or benefit.

Third, a genuine issue of material fact exists with respect to whether Defendant was deliberately indifferent to Plaintiff's complaints of harassment. The evidence shows Defendant unreasonably used verbal warnings on multiple occasions despite their ineffectiveness and escalating harassment. Furthermore, Defendant delayed its response to the most serious incident and instituted its most severe measure only after Plaintiff was no longer present on campus. Accordingly, there is, at minimum, a genuine issue of material fact whether Defendant acted with deliberate indifference towards Plaintiff's reports of harassment.

Because the evidence shows the existence of genuine issues of material fact as to the three disputed elements of Defendant's Motion for Summary Judgement, the Court should deny the motion.

IV. STATEMENT OF FACTS.

[Omitted for brevity.]

V. SUMMARY JUDGMENT EVIDENCE.

[Omitted for brevity.]

VI. STANDARD OF REVIEW.

[Omitted for brevity.]

Astrid Fuentes

VII. ARGUMENT AND AUTHORITIES.

The Court should deny Defendant's motion because there are genuine issues of material fact as to the three elements raised in Defendant's Motion for Summary Judgment. To establish a Title IX claim, Plaintiff must establish that (1) the school district had actual knowledge of the harassment; (2) the harasser was under the district's control; (3) the harassment was on the basis of sex; (4) the harassment was so severe, pervasive, and objectively offensive that it effectively barred the plaintiff's access to an educational opportunity or benefit; and (5) the district was deliberately indifferent to the harassment. *Sanchez*, 647 F.3d at 165. Given that Defendant does not dispute the first and second elements of the claim, they will be disposed of below. As to the remaining elements, genuine issues of material fact exist as to the three disputed elements in Defendant's motion. The facts will raise, at a minimum, genuine issues of material fact as to whether Plaintiff's harassment was "on the basis of sex," whether Plaintiff was "deprived" of educational opportunities and benefits, and whether Defendant was "deliberately indifferent" to the reports of sexual harassment. Because there are genuine issues of material fact as to the three disputed elements, the Court should deny Defendant's Motion for Summary Judgment.

A. The Court should deny summary judgment because the harassment was on the basis of sex and included "sex-based terms," such as "hoe" and "slut," and unwanted touching of Plaintiff's private parts.

The Court should deny summary judgment because there is, at a minimum, a fact issue as to whether A.B.'s harassment of Plaintiff was "on the basis of sex." The third element of a Title IX claim of peer harassment is established if the harassment is "on the basis of sex." 20 U.S.C. § 1681(a). Same-sex sexual harassment among peers can be actionable under Title IX. *Sanchez*, 647 F.3d at 165. Whether the harassment rises to the level of a Title IX violation depends on the "constellation of surrounding circumstances," including the relationship between the parties. *Davis*, 526 U.S. at 651. The harassment "need not be motivated by sexual desires" but

Astrid Fuentes

instead, may be motivated by “hostility to presence of same-sex” peers. *Doe v. Hamilton Cty. Bd. of Edu.*, 329 F. Supp.3d 543, 558 (E. D. Tenn. 2018). The use of “sex-based terms” may rise to the level of actionable harassment when it is “constant and pervasive.” *Krebs v. New Kensington-Arnold Sch. Dist.*, No. CV 16-610, 2016 WL 6820402, at *3 (W.D. Pa. Nov. 17, 2016). The presence of sexual harassment may be evidenced in various forms, including threatening behavior, “derogatory terms,” and physical abuse, including “uninvited contact” with private body parts. *Doe v. Pennridge Sch. Dist.*, 413 F. Supp. 3d 397, 404 (E.D. Pa. 2019); *Carmichael v. Galbraith*, 547 F. App’x 286, 290 (5th Cir. 2014).

Sexual name-calling and uninvited contact with private parts, when considered along with the circumstances and relationships, may support a claim of sex-based sexual harassment under Title IX. In *Carmichael v. Galbraith*, the court reversed the district court’s dismissal of a Title IX claim and ruled that unwanted touching of private parts paired with sex-based terms was sexual harassment. *Carmichael*, 547 F. App’x at 289–91. In that case, the victim was called gender-based names such as “queer,” “fag,” and “homo” by same-sex peers and was stripped naked. *Id.* at 288. The court reasoned that the behavior should be evaluated “depending on the constellation of surrounding circumstances” and furthermore, “uninvited contact with private areas has often been” in violation of Title IX. *Id.* at 290.

Here, the Court should also find the harassment was on the basis of sex because the evidence demonstrates that Plaintiff was subjected to sex-based terms and uninvited touching of her private parts. Like *Carmichael*, where the harassed student was subjected to gendered insults, such as “homo” and “queer,” here, Plaintiff was called similar “sex-based terms” including, “slut” and “whore.” *Carmichael*, 547 F. App’x at 288; Ex. 1, D.Z. Dep. 1:19, 6:3. Additionally, like *Carmichael*, where the harassed student experienced numerous incidents of uninvited contact to his private parts including “having his underwear removed” and was stripped naked,

Astrid Fuentes

here, A.B. grabbed Plaintiff's chest, brushed her body against Plaintiff, and shoved Plaintiff into a locker. *Carmichael*, 547 F. App'x at 288; Ex. 1, D.Z. Dep. 4:19, 5:1. Because Plaintiff was subjected to "sex-based terms" and faced uninvited contact to her private parts, a fact issue exists regarding whether the harassment was on the basis of sex. Accordingly, the Court should deny summary judgment.

Defendant's reliance on *Sanches v. Carrollton-Farmers Branch Independent School District* is misguided. Unlike *Sanches*, where the student was only called "ho" once and later was associated with pregnancy rumors, here, Plaintiff was called a "slut" and "whore" on numerous occasions and endured physical harassment. *Sanches*, 647 F.3d at 160; Ex. 1, D.Z. Dep. 2:24–26, 4:19, 5:1, 6:3. Though Defendant characterizes the harassment as merely "name-calling," Defendant failed to inform the Court about the three incidents of physical harassment including A.B. touching Plaintiff's breast, A.B. brushing her body against Plaintiff, and A.B. violently shoving Plaintiff into a locker. Def.'s Mot. Summ. J. 8; Ex. 1, D.Z. Dep. 2:24–26. Hence, the Court should find our case distinguishable from *Sanches*.

Furthermore, Defendant's claim that A.B.'s harassment was due to personal animosity because A.B. "felt [Plaintiff] stole [her] boyfriend K.T." incorrectly states the timeline of events. Def.'s Mot. Summ. J. 9. A.B. began to harass Plaintiff on August 17, 2020, before Plaintiff began dating K.T. on or around August 30, 2020. Ex. 1, D.Z. Dep. 2:13–20. When Plaintiff and K.T. broke up three weeks later, A.B. did not stop harassing Plaintiff. Ex. 1, D.Z. Dep. 3:24–25, 5:26. A.B. continued to harass Plaintiff for several months. Ex. 1, D.Z. Dep. 5:28. Though Defendant claims the harassment was motivated by personal animosity, rather than on the basis of sex, the facts do not support the claim.

Based on the repeated verbal harassment and unwanted physical touching of Plaintiff's private parts, the Court should find a genuine issue of fact exists with respect to whether the

**PLAINTIFF D.Z.'S OPPOSITION TO DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT**

Page 6

Astrid Fuentes

harassment was on the basis of sex. Accordingly, the Court should deny Defendant's Motion for Summary Judgment.

B. The Court should deny summary judgment because Plaintiff was effectively barred from educational benefits due to the effects of the harassment including, anxiety, declining academic performance and withdrawal from in-person education.

[Omitted for brevity.]

C. The Court should deny summary judgment because Defendant's response to the escalating harassment was deliberately indifferent and included ineffective verbal warnings and delayed action.

VIII. CONCLUSION

Because genuine issues of material fact exist as to each of the three disputed elements of the Title IX claim, Plaintiff respectfully requests that the Court deny Defendant's Motion for Summary Judgment.

Respectfully submitted,

/s/ ATTORNEY
ATTORNEY NAME
State Bar No.1234567
Attorney@lawfirm.com
Smith & Jones LLP
1901 Main Street, Suite 1100
Dallas, Texas 75201
214-555-1111 (office)
214-555-1113 (facsimile)
Attorney for Plaintiff

Astrid Fuentes

CERTIFICATE OF SERVICE

This is to certify that on the 28th day of March 2021, I electronically filed the foregoing document with the clerk of the Court for the United States District Court, Northern District of Texas, using the electronic case filing system of the Court, and served this document on all attorneys of record in accordance with Rule 5 of the Federal Rules of Civil Procedure.

/s/ Attorney Smith

**PLAINTIFF D.Z.'S OPPOSITION TO DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT**

Page 8

Applicant Details

First Name **Lindsey**
 Last Name **Gard**
 Citizenship Status **U. S. Citizen**
 Email Address lggp2@mail.umkc.edu
 Address

Address

Street
1812 NW Westbrookr Pl
 City
Blue Springs
 State/Territory
Missouri
 Zip
64015
 Country
United States

Contact Phone Number **8168047307**

Applicant Education

BA/BS From **University of Missouri-Kansas City**
 Date of BA/BS **December 2019**
 JD/LLB From **University of Missouri--Kansas City
 School of Law**
<http://law.umkc.edu>
 Date of JD/LLB **May 15, 2023**
 Class Rank **33%**
 Law Review/Journal **Yes**
 Journal(s) **UMKC Law Review**
 Moot Court Experience **No**

Bar Admission

Admission(s) **Missouri**

Prior Judicial Experience

Judicial Internships/
 Externships **Yes**

Post-graduate Judicial
Law Clerk **No**

Specialized Work Experience

Specialized Work
Experience **Bankruptcy, Patent, Pro Se**

Recommenders

Moore, Lee
MooreLee@UMKC.edu
816-235-6201
Tripp, Michael
mrthkk@umkc.edu
(816) 235-1644
Copus, Ryan
copusr@umkc.edu
N/A

This applicant has certified that all data entered in this profile and any application documents are true and correct.

1812 NW Westbrooke Pl
Blue Springs, MO 64015

January 24, 2023

Magistrate Judge Irma C. Ramirez
1100 Commerce Street, Room 1567
Dallas, Texas 75242

Dear Judge Ramirez,

As a diverse law student and a beneficiary of an internship through Just the Beginning, I am inspired to apply for a judicial clerkship with your chambers. A clerkship with your chambers will enable me to become the best attorney I can be by providing me with skills to improve my research and writing, opportunities to improve my analytical skills, and mentorship to better understand judicial decision-making.

I have been fortunate to be able to intern for two judges. As an intern, I learned the value of expanding upon the knowledge learned in the classroom. I have gained a new perspective on interpreting the law, approaching research and writing, and understanding the judicial process. During my internship with Judge James Dowd of the Missouri Court of Appeals, I learned about Missouri's Nonpartisan Plan, appellate practice, and was introduced to trial and appellate briefs. I wrote an executive summary on a pending case and it was very rewarding – and educational – to get feedback from a well-respected appellate judge. As an intern with Judge Cynthia Norton of the U.S. Bankruptcy Court of the Western District of Missouri, I experienced many firsts. I observed my first jury trial in the district court, a mediation in an employment discrimination case, and various bankruptcy court proceedings; worked on a variety of memorandums, opinions, and articles; prepared CLE materials; and worked on a variety of diversity and inclusion projects. I learned valuable lessons from both judges that have given me a foundation that I hope to continue to grow upon through a clerkship with your chambers.

With my legal internship experience in state court and federal bankruptcy court, I want to further expand my experience by working with an appellate court judge who handles a broad spectrum of criminal and civil matters. Further, I am interested in a diverse judge.

I am confident that my experience and skills will enable me to make a positive contribution to your chambers. I look forward to the opportunity to speak with you further.

Sincerely,

A handwritten signature in black ink, appearing to read "Lindsey Gard", with a stylized flourish at the end.

Lindsey Gard

Lindsey Gard

lggp2@mail.umkc.edu | (816)804-7307 | 1812 NW Westbrooke Pl, Blue Springs, MO 64015 | linkedin.com/in/lindseygard/

PROFILE

Phi Delta Phi legal honor society inductee, well-rounded and motivated 3rd year law student with diverse leadership roles, such as staff on the UMKC Law Review and beneficiary of Just the Beginning's judicial internship program. As a published author in the *Sosland Journal*, judicial intern, law clerk, and research assistant, I am skilled in writing and analytics. My legal internship experience in state court and federal bankruptcy court allows me to uniquely solve problems and I want to further expand my experience by working with a magistrate judge who handle a broad spectrum of criminal and civil matters.

EDUCATION**University of Missouri-Kansas City***Juris Doctor Candidate*

Kansas City, MO

Expected May 2023

- **Leadership:** Intellectual Property Law Society, Vice President (VP); Older Wiser Law Students, VP; Outlaws, VP; First-Generation Professionals Program, Co-Director; Student Bar Association, 2L Class Representative; UMKC Law Emissary; Barbri Representative; Professional & Career Development Ambassador; Diversity and Inclusion Ambassador
- **Honors/Awards:** UMKC Law Review; Completed 350/200 hours for Pro Bono Honors Program; Second Century Scholarship; International Women's Insolvency and Restructuring Confederation Scholar for 2022; Phi Delta Phi Legal Honor Society; 2022 Koger Scholarship, Association of American Law Schools' Pro Bono Honor Roll
- **Study Abroad:** Gonzaga in Florence, studied mediation, artificial intelligence, and privacy law

University of Missouri-Kansas City*Bachelor of Science in Biology, Minor in Chemistry*

Kansas City, MO

December 2019

- **Honors:** Dean of Student Honor Recipient Fall 2019, Dean's List Spring 2019

RELEVANT WORK EXPERIENCE**Kansas University Center For Technology Commercialization***The Kansas University*

Kansas City, MO

January 2021 – December 2022

- Evaluate innovations in bioscience, engineering, human development, and chemistry, to determine patentability
- Perform prior art searches, write non-confidential summaries, and amend licensing agreements to commercialize

Judicial Internship with Judge Norton*United States Bankruptcy Court, Western District of Missouri*

Kansas City, MO

June 2022 – August 2022

- Conducted legal research on federal issues, wrote various memorandums, and edited opinions
- Shadowing various court and mediation proceedings; worked on research projects; and prepared CLE materials

Kansas City Tax Clinic*University of Missouri Kansas City*

Kansas City, MO

July 2021 - May 2022

- Resolved various federal tax issues such as: collections, liens, missing stimulus payments, and notice of deficiencies
- Performed intake of new clients, communicated with current clients, and became familiar with tax software.

Judicial Internship with Judge Dowd*Missouri Court of Appeals for the Eastern District*

St. Louis, MO

January 2022

- Studied the history of the court, Missouri Appellate practice and the Missouri Nonpartisan Court Plan
- Practiced and prepared an oral argument and wrote an executive summary relating to a case currently pending

Student Research Assistant for Ann Marie Marciarille, Health Law Professor*University of Missouri-Kansas City*

Kansas City, MO

September 2021 - April 2022

- Became familiar with the CFR, agency law, and the ACA in order to track proposed legislation to make comments
- Researched the effects of mergers & acquisitions, parity laws and antitrust laws

Inspection, Tool and Precision Gage*Honeywell FM&T*

Kansas City, MO

October 2020 - December 2020

- Inspected manufactured products based on design specifications following inspection work instruction
- Practiced the basics of geometric dimension and tolerance and using computer-aided design and computer numerical control

PUBLICATION

Lindsey Gard, *Artificial Intelligence: Saving Species and Science*, *SOSLAND J.* 119 (2020) (discussing the intersection between artificial intelligence and biology).

<div> <div></div> <div>School of Law Unofficial Transcript</div> </div>																																																	
<div> <div>Name:Lindsey Gard</div> <div>EMPLID:16201001</div> </div>																																																	
<div>Transfer Credit</div> <table> <tr> <td>Gonzaga University</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr> <td>Ext. Subject</td><td>Ext. Catalog Nbr</td><td>Term</td><td>Ext. Course Title</td><td>Credit Hours</td><td>Grd</td><td>Ext. Subject</td><td>Ext. Catalog Nbr</td><td>Term</td><td>Ext. Course Title</td></tr> <tr> <td>LAW</td><td>9601</td><td>SS2022</td><td>AI Policy & Business Law & Soc</td><td>2.00</td><td>CR</td><td>LAW</td><td>9604</td><td>SS2022</td><td>International Privacy Law</td></tr> <tr> <td>LAW</td><td>9680</td><td>SS2022</td><td>Internatnl Mediation Competitn</td><td>1.00</td><td>CR</td><td></td><td></td><td></td><td></td></tr> </table>										Gonzaga University										Ext. Subject	Ext. Catalog Nbr	Term	Ext. Course Title	Credit Hours	Grd	Ext. Subject	Ext. Catalog Nbr	Term	Ext. Course Title	LAW	9601	SS2022	AI Policy & Business Law & Soc	2.00	CR	LAW	9604	SS2022	International Privacy Law	LAW	9680	SS2022	Internatnl Mediation Competitn	1.00	CR				
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2021 Spring Semester LAW 8521 16368 . Civil Procedure - Pleadings LAW 8631 10276 . Constitutional Law LAW 8634 16369 . Criminal Law LAW 8831R 16378 . Internat Human Right Law LAW 8897E 14652 . Intro to Law Study Cur. Term GPA: 2.838 Cum. GPA: 2.838					2022 Fall Semester LAW 8601 40744 . Business Organizations LAW 8635 44859 . Criminal Procedure I LAW 8745 43884 . Law Review LAW 8746R 40783 . Independent Study LAW 8808 45666 . Intellectual Prop Law LAW 8853 46391 . Seminar/Law Science/Tech Cur. Term GPA: 3.250 Cum. GPA: 2.905																																												
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2021 Summer Semester LAW 8511 31092 . Torts LAW 8552 31434 . Federal Taxation LAW 8731 31899 . Prof Responsibility LAW 8912 32202 . Client Interviewing Cur. Term GPA: 3.022 Cum. GPA: 2.914					2023 Spring Semester LAW 8590 21728 . LAW 8707C 21545 . Adv Lgl Wrt: Lit Drafting LAW 8761M 21313 . Law, Medicine & Bioethics LAW 8882 10213 . Patent Law LAW 8897B 10003 . Building MBE Skills LAW 8905 21593 . Intell Property Litigation Cur. Term GPA: 0.000 Cum. GPA: 2.905																																												
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2022 Spring Semester LAW 8502 10227 . Contracts II LAW 8532 13659 . Lawyering Skills II LAW 8532 13660 . Lawyering Skills II LAW 8542 10230 . Property II LAW 8746R 10302 . Independent Study LAW 8798 14070 . Copyright Law LAW 8834R 10318 . Tax Clinic Cur. Term GPA: 2.885 Cum. GPA: 2.820					LAW 8590 21728 . LAW 8707C 21545 . Adv Lgl Wrt: Lit Drafting LAW 8761M 21313 . Law, Medicine & Bioethics LAW 8882 10213 . Patent Law LAW 8897B 10003 . Building MBE Skills LAW 8905 21593 . Intell Property Litigation Cur. Term GPA: 0.000 Cum. GPA: 2.905																																												
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2022 Summer Semester LAW 8749 32321 . Field Placement Seminar LAW 8877 31306 . Bankruptcy Court Intern Cur. Term GPA: 0.000 Cum. GPA: 2.820					LAW 8590 21728 . LAW 8707C 21545 . Adv Lgl Wrt: Lit Drafting LAW 8761M 21313 . Law, Medicine & Bioethics LAW 8882 10213 . Patent Law LAW 8897B 10003 . Building MBE Skills LAW 8905 21593 . Intell Property Litigation Cur. Term GPA: 0.000 Cum. GPA: 2.905																																												
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Issued To Student

University of Missouri – Kansas City

Official Transcript

Date: 03/20/2021 Page: 1 of 2

Name: **Gard,Lindsey**
 Student ID: 16201001
 Date of Birth: 09/19/XXXX
 Soc. Sec. Number: XXX-XX-4515

This transcript has been produced for:

LINDSEY THU GARD

Course Number	Course Title	Grade	Hours	Remarks
FALL 2016 Graceland University				
Chem 1430	Principles of Chemistry I	A	3.0	
Chem 1431	Principles of Chemistry I Lab	A	1.0	
Intd 1100	Critical Thnkg Lib Arts-Scienc	A	3.0	
Math 1380	Introduction to Statistics	A	3.0	
Psyc 1300	Introductory Psychology	A	3.0	

FALL 2016 Southwestern Community College				
Soc 110	Intro to Sociology	A	3.0	

SPNG 2017 Metropolitan Community College				
Biol 124	General Biology for Majors	A	4.0	
Chem 112	Gen College Chem II	A	5.0	
Engl 102	Composition & Reading II	A	3.0	

SPNG 2017 Southwestern Community College				
Spc 112	Public Speaking	A	3.0	

SUM 2017 Metropolitan Community College				
Bsad 150	Business Essentials	A	3.0	

FALL 2017 Exam Credit				
Biology 102	Biology and Living	CR	3.0	
Math 210	Calculus I	CR	4.0	

FALL 2017 Univ of MO-KC Ugrd Biol-BS				
Biology 108	General Biology I	B	3.0	
Biology 108L	General Biology I Lab	A	1.0	
Chem 321	Organic Chemistry I	B	3.0	
Chem 321L	Organic Chem Lab I	A-	1.0	
Physics 130	Physics of Sports	A	3.0	
Physics 210	General Physics I	A	4.0	
UGRD Term:		GPA Hrs Att	Hrs Ern	Qual Pt
UGRD CUM:		15.0	15.0	53.70
		27.0	68.0	101.70
				3.580
				3.767

SPNG 2018 Univ of MO-KC Ugrd Biol-BS				
Biology 202	Cell Biology	B	3.0	
Biology 319	Global Hlth: New Diseases	B+	3.0	
Chem 322L	Organic Chem Lab II	A	1.0	
Chem 322R	Organic Chemistry II	B	3.0	
Life S 202	Exploring Healthcare Professio	CR	1.0	
Physics 220	General Physics II	A-	4.0	
UGRD Term:		GPA Hrs Att	Hrs Ern	Qual Pt
UGRD CUM:		14.0	15.0	46.70
		41.0	83.0	148.40
				3.336
				3.620

Course Number	Course Title	Grade	Hours	Remarks
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Degrees Awarded

University of Missouri - Kansas City

Biology BS

Chemistry Minor

12-13-2019

12-13-2019

Engl Prof/Writ & Read Assmnt				
01 RW	RW Roo Writer (E)			11/10/2017

FALL 2014 Univ of MO-KC Ugrd Nond-Ua&s				
History 101	U.S. History to 1877	A	3.0	
UGRD Term:		GPA Hrs Att	Hrs Ern	Qual Pt
UGRD CUM:		3.0	3.0	12.00
				4.000
		3.0	3.0	12.00
				4.000

SPNG 2015 Univ of MO-KC Ugrd Nond-Ua&s				
History 102	U.S. History Since 1877	A	3.0	
UGRD Term:		GPA Hrs Att	Hrs Ern	Qual Pt
UGRD CUM:		3.0	3.0	12.00
				4.000
		6.0	6.0	24.00
				4.000

FALL 2015 Univ of MO-KC Ugrd Nond-Ua&s				
Englsh 110	Eng I: Intro Acad Prose	A	3.0	
UGRD Term:		GPA Hrs Att	Hrs Ern	Qual Pt
UGRD CUM:		3.0	3.0	12.00
				4.000
		9.0	9.0	36.00
				4.000

SPNG 2016 Univ of MO-KC Ugrd Nond-Ua&s				
Englsh 214	Introduction to Fiction	A	3.0	
UGRD Term:		GPA Hrs Att	Hrs Ern	Qual Pt
UGRD CUM:		3.0	3.0	12.00
				4.000
		12.0	12.0	48.00
				4.000

Amy Cole

Registrar, Amy Cole

University of Missouri – Kansas City

Date: 03/20/2021 Page: 2 of 2

Official Transcript

Name: **Gard,Lindsey**
 Student ID: 16201001
 Date of Birth: 09/19/XXXX
 Soc. Sec. Number: XXX-XX-4515

This transcript has been produced for:

LINDSEY THU GARD

Course Number	Course Title	Grade	Hours	Remarks
FALL 2018	Univ of MO-KC	Ugrd	Biol-BS	
Anch 306	From Bench to Bedside	A	3.0	
Biology 206	Genetics	C	3.0	
Disc 300	Discourse III	A	3.0	
Ls Anato 218	Introductory Anatomy	W	3.0	
Ls Bio 441	Biochemistry	C+	3.0	

	GPA Hrs Att	Hrs Ern	Qual Pt	GPA
UGRD Term:	12.0	12.0	36.90	3.075
UGRD CUM:	53.0	95.0	185.30	3.496

SPNG 2019	Univ of MO-KC	Ugrd	Biol-BS	
Biology 206	Genetics	A	3.0	
Biology 328	Histology	A	2.0	
Biology 328WL	Lab Histology Cell Ultra	A	3.0	
Biology 498WI	Crtcl Anlys of Bio Iss	A	3.0	
Cnsvt 125	Hist & Dev Rock & Roll	A	3.0	
Phys Ed 206	First Aid and Safety	A	1.0	
Dean's List				

	GPA Hrs Att	Hrs Ern	Qual Pt	GPA
UGRD Term:	15.0	15.0	60.00	4.000
UGRD CUM:	68.0	110.0	245.30	3.607

SUM 2019	Rockhurst University			
BI 3100	Microbiology	B+	3.0	
BI 3101	Microbiology Lab	B+	1.0	

SUM 2019	Univ of MO-Col			
Pth&as 2201	Elem Anatomy Lecture	B	3.0	

Course Number	Course Title	Grade	Hours	Remarks
FALL 2019	Univ of MO-KC	Ugrd	Biol-BS	
Biology 217L	Human Physiology Lab	A	1.0	
Biology 218L	Intro Anatomy Laboratory	B	2.0	
Biology 316	Principles of Physiology	D+	3.0	
Biology 350	Assisting Undergraduate Learn	A	3.0	
Chem 311	Lab Safety & Health I	A	1.0	
Chem 341WI	Anyl Chem I:Quant Anyl	B-	4.0	
Chem 390	Spec Topics in Chemistry	A	3.0	
Life S 497L	Directed Studies-Biol Sciences	A	2.0	
Nurse 125	Medical Terminology	A	1.0	

	GPA Hrs Att	Hrs Ern	Qual Pt	GPA
UGRD Term:	20.0	20.0	64.70	3.235
UGRD CUM:	91.0	137.0	319.00	3.505

SPNG 2021	Univ of MO-KC	Law	Law-Jd	
Law 8521	Civil Procedure - Pleadings	IP	3.0	
Law 8631	Constitutional Law	IP	4.0	
Law 8634	Criminal Law	IP	3.0	
Law 8831R	Internat Human Right Law	IP	3.0	
Law 8897E	Intro to Law Study	IP	0.0	

	GPA Hrs Att	Hrs Ern	Qual Pt	GPA
LAW CUM:	0.0	0.0	0.00	

Amy Cole

Registrar, Amy Cole

UNIVERSITY OF MISSOURI-KANSAS CITY

5100 Rockhill Road, Administrative Center Room 115

Kansas City, Missouri 64110-2499; (816) 235-1125; FAX (816) 235-5513; www.umkc.edu/registrar**Key to Transcript of Academic Records**

UMKC is one of four campuses in the University of Missouri system. It was the University of Kansas City until it joined the University of Missouri system in 1963. All campuses maintain separate records and do not have access to the records maintained on the other three campuses.

Accreditation

UMKC is accredited by The Higher Learning Commission and is a member of the North Central Association. The Higher Learning Commission accredits UMKC as a whole. Specific undergraduate, graduate, and professional programs are also accredited by other programmatic accrediting agencies. The accredited programs and their accrediting agencies are identified in the UMKC Catalog available at www.umkc.edu/catalog.

Academic Calendar

All credits shown are semester credit hours. Fall and Winter/Spring semester are 16 weeks long. Summer terms vary in length from 4 to 10 weeks.

Course Numbering System**Fall 1933 - Winter 2007**

Lower level undergraduate	100-299
Upper level undergraduate	300-499*
Graduate level	500-899
Dentistry professional	300-599
Dentistry graduate	700-899
Law lower level	500-599
Law upper level and graduate	600-899
Medicine lower level	100-299
Medicine upper level	300-699

Summer 2007 - Summer 2013

Lower level undergraduate	100-299
Upper level undergraduate	300-499*
Graduate level	5000-5999
Dentistry professional	6000-6999
Pharmacy professional	7000-7999
Law professional	8000-8999
Medicine professional	9000-9999

Fall 2013 - Present

Lower level undergraduate	100-299 or 1000-1999
	200-299 or 2000-2999
Upper level undergraduate	300-399 or 3000-3999*
	400-499 or 4000-4999*
Graduate level	5000-5999
Dentistry professional	6000-6999
Pharmacy professional	7000-7999
Law professional	8000-8999
Medicine professional	9000-9999

* May be taken for graduate credit

Explanation of Remarks

In the column immediately to the right of the credit hours, coded messages are printed regarding UMKC actions.

UMKC Courses

G	Graduate level credit
H	Honors section or contract
N	Undergraduate level credit
P	First professional level credit
*	Indicates a change to original

Transfer Courses

4	No credit approved
A	Not a transferable course
N	Below college level
Q	Repeated course

Hours accepted for transfer may include courses not applicable in certain degree programs. Students must consult their UMKC academic advisor for a comprehensive review of degree requirements including transfer credits.

Grading Practices

UMKC has used the 4.0 grading scale since Fall 1966. Consult the UMKC Office of Registration & Records for grading explanations prior to 1966.

Grade	Pts
A	Highest Grade
B	Work of Distinction
C	Average Work
D	Passing-Unsatisfactory
F	Failing
NR	Not reported
WF	Withdrawn Failing
I	Incomplete
AT	Audit
CR	Credit
NC	No Credit
P	Passing
S	Satisfactory
T	Required Enrollment
W	Withdrawn
WF	Withdrawn Failing
	Beginning Fall 2012, no impact to the GPA for undergraduate students
IP	In Progress
PR	Pre-Registered Course

UMKC began using plus and minus grading suffixes in Fall 1993. Prior to 1993, only the Law School used plus and minus suffixes. Grades with a plus are given three tenths (0.3) additional quality points per semester hour and grades with a minus are reduced by three tenths (0.3) quality points per semester hours. The plus and minus suffixes are available on grades "A" through "D" except that the "A+" is only approved for use by the School of Law.

Grades preceded by the letter "R" indicates the course was repeated. The original grade is not used in computing cumulative hours or grade point average. All courses completed by undergraduate students since 1985, including repeated courses, are used in calculating cumulative hours and GPA.

Grades preceded by the letter "X" indicate the course was forgiven by the Faculty in accordance with the UMKC Academic Amnesty policy and that the course is not used in computing cumulative hours or GPA. Amnesty is available to undergraduate students only.

Doubled grades, such as AA, BB, CC, DD and FF indicate that the course is not used in computing cumulative hours or GPA. The course associated with the doubled grade is not applicable to the student's program of study.

Beginning in the Summer 2008 term, the School of Medicine changed the scale by which grades for clinical rotations are reported. The following scale is used.

Beginning Fall 2015, MATH 100 and MATH 109 letter grades are not calculated in the cumulative GPA.

Grade	
H	Honors
HP	High Pass
SP	Satisfactory Pass
MP	Marginal Pass
F	Fail

Term and Summary GPA and Credit

Following the listing of individual UMKC courses each semester is a term summary including the term GPA. At the conclusion of each level of work (undergraduate, graduate and first professional), the cumulative totals are listed. The three levels of work are not combined in any way.

The University of Missouri cumulative GPA is considered the official cumulative GPA. It includes the course hours and quality points from all courses attempted at any of the University of Missouri campuses.

Dean's List and Latin Honors

Undergraduate students who meet the academic criteria of their school or college during a semester are placed on the permanent honor roll (known as the Dean's List) for that term.

Undergraduates and students in the MD, DDS, JD, and PharmD programs who meet the criteria of their academic program will be awarded their degree with Latin honors (Summa Cum Laude, Magna Cum Laude, or Cum Laude).

Until June 2004, UMKC awarded the top 20% of the graduating class (excluding graduate level students) their degree "With Distinction".

Beginning in Summer 2004, Summa Cum Laude was awarded to the top 5% of students, Magna Cum Laude to the top 10%, and Cum Laude to the top 20% of the graduating class.

Beginning in Fall 2012, undergraduate students are eligible to be awarded their degrees with Latin honors as determined by each of the academic units using fixed overall GPA requirements (see www.umkc.edu/registrar/graduation) which may be adjusted annually. The calculation for Latin honors will be made using the GPA of the last 60 hours earned at UMKC, including credits in the semester when the student reaches or exceeds 60 hours.

UMKC Cumulative GPA Definition: The grade point average (GPA) referenced on an academic transcript is a cumulative GPA depending on which career classes are completed for a given semester (e.g. undergraduate, graduate or professional). Because the GPA is cumulative and reflects all academic work completed at the institution, the GPA does not start over for those students who pursue a second degree within the same career.

Confidentiality

In accordance with the Family Educational Rights and Privacy Act of 1974, information from this transcript may not be released to a third party without written consent of the student.



School of Law
Kansas City Tax Clinic

August 3, 2021

Re: Lindsey Gard
Recommendation Letter

To Whom It May Concern:

It is my pleasure to recommend Lindsey Gard for the position of judicial extern/intern and/or a summer law clerkship. I came to know Lindsey when I was her supervisor in the Kansas City Tax Clinic here at UMKC Law School. Lindsey distinguished herself initially by taking the initiative to reach out and volunteer her time at the Clinic. I was further most pleasantly surprised at her ability to grasp the tasks I assigned to her. Clearly, her science background has equipped her to problem solve at rate not normally present in first year law students. She accomplished every task I assigned at a very high level.

Personally, I found Lindsey to be very a pleasant, punctual, and bright student and excellent all-around volunteer. She seemed very interested in not only being assigned tasks but also the "why" we did things in a particular manner.

I therefore, highly recommend Lindsey for the position of judicial extern/intern and/or summer law clerk.

If I can be of further assistance, or provide further information, please do not hesitate to contact us at 816-235-6201.

Sincerely,

A handwritten signature in blue ink that reads "Lee A. Moore". The signature is fluid and cursive, with the first name "Lee" and last name "Moore" clearly distinguishable.

Lee A. Moore

August 29, 2022

Re: *Lindsey Gard, Clerkship Applicant*

Dear Hiring Judge:

I have the great pleasure of having Lindsey Gard as a student in Lawyering Skills I and II during the 2021-2022 academic year, and I enthusiastically recommend her for a judicial clerkship in your chambers.

As a student in Lawyering Skills, Lindsey demonstrates an exceptional work ethic and a strong desire to achieve proficiency as a legal writer. I observe that Lindsey takes her studies seriously; she is prompt in beginning and completing her assignments, she asks questions when necessary, and she responds well to suggestions for improvement in her writing. In fact, Lindsey is one of the most hardest working and has one of the most teachable attitudes of all of my students in my Lawyering Skills sections. Her hard work has paid off—on her first objective writing assignment for the fall semester of Lawyering Skills, Lindsey received the second highest grade in her section.

Lindsey has used taken every opportunity to gain legal experience outside the law school classroom. In addition to the practical legal experience she has accrued through various paid and unpaid legal positions, she has demonstrated her desire to learn the law as it operates in our judicial system, clerking for the Honorable James M. Dowd of the Missouri Court of Appeals, Eastern District, during semester break last year, as well as a future internship this summer with the Honorable Cynthia A. Norton of the United States Bankruptcy Court for the Western District of Missouri this upcoming summer. Lindsey has told me that she hopes to serve as a judicial law clerk to further her understanding of the practice of law and further develop her writing skills.